***CHECKLIST FOR THE DEFINITION/ADOPTION OF AN AD HOC DEVELOPMENT SETBACK LINE***

**NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS.**

**NOVEMBER 2019**

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| --- |
| (For official use only) |
| Setback Line Reference Number: |  |
| Date received by Department: |  |
| Date received by Directorate: |  |
| Date received by Case officer: |  |

**GENERAL PROJECT DESCRIPTION**

(This must Include an overview of the project including the Farm name/Portion/Erf number).

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**IMPORTANT INFORMATION TO BE READ PRIOR TO COMPLETING THIS CHECKLIST**

1. **Purpose**

The purpose of this checklist is to provide baseline information for the determination of an *ad hoc* development setback line.

1. **General**
	1. The Environmental Impact Assessment Regulations (“EIA”) is defined in Chapter 5 of the National Environmental Management Act (“NEMA”), hereinafter referred to as the “NEMA EIA Regulations”.
	2. The required information must be typed within the spaces provided in the checklist. The sizes of the spaces provided are not necessarily indicative of the amount of information to be provided. The tables may be expanded where necessary.
	3. Unless protected by law, all information contained in, and attached to this checklist, will become public information. Upon request, the proponent must provide any interested and affected party with the information contained in or submitted with this checklist.
	4. **No faxed or e-mailed checklists** **will be accepted**.
	5. The quality, correctness and detail of information submitted by you is extremely important and it remains your responsibility to interrogate the specifics of your proposed development in order to report on the potential listed activities in this checklist.
	6. This **checklist is a guide** to the information that must be submitted. Any additional information, pictorial evidence or explanations prompted by the checklist must be submitted along with this checklist in order to ensure that the Competent Authority does not need to request additional information from you. Incomplete checklists will result in a request for additional information.
	7. It is an offence in terms of Section 24F of the NEMA to provide incorrect or misleading information to the Competent Authority.
	8. Any proposed development must always be designed in a water wise and conscious manner. Climate change considerations must always be taken into account with respect to any development proposal.
	9. Section 28(1) of the NEMA must always be taken into account which deals with the Duty of Care and the remediation of environmental damage.
	10. This checklist is current as of **November 2019.** It is the responsibility of the Proponent / Environmental Assessment Practitioner (“EAP”) to ascertain whether subsequent versions of this checklist have been released by the Competent Authority.
	11. This checklist must be **duly dated and originally signed** by the Proponent and/or EAP (if applicable) and must be submitted to the Department at the details provided below.
2. **Administrative requirements**

This checklist must be used to request the Competent Authority to define/adopt an *ad hoc* development setback line in terms of the NEMA EIA Regulations.

1. **Circulars, Guidelines and Tools**
	1. The Department’s latest Circulars pertaining to the “One Environmental Management System” and the EIA Regulations and guidelines must be taken into account when completing this Checklist.
	2. The Screening Tool developed by the National Department of Environmental Affairs must be used to generate a screening report. Please use the Screening Tool link <https://screening.environment.gov.za/screeningtool> to generate the Screening Tool Report. The Screening Tool Report must be attached to this checklist as Appendix A.
2. **Setback Line Information**
	1. An *ad hoc* development setback line is defined/adopted in terms of the NEMA EIA Regulations and only relates to the relevant listed activities triggered by the proposed development where this Department is the competent authority.
	2. An *ad hoc* development setback line is **not** defined/adopted in terms of the **National Environmental Management Act: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (“ICMA”) / National Water Act, 1998 (Act No. 36 of 1998)** or any other legislation, and notwithstanding the location of the *ad hoc* development setback line, any other statutory requirements that may be applicable to the undertaking of the development must be adhered to. The requirements of all relevant legislation must be met.
	3. An *ad hoc* development setback line that may be defined/adopted does not imply that the area inland of the line will not be exposed to risks arising from dynamic processes, including the risk of flooding or erosion.
3. **Minimum Public Participation Process Requirements**
	1. **A public participation process must be undertaken** as part of the setback line definition/adoption request. As a minimum you will be required to:
	2. inform the surrounding neighbours and your local authority of your intentions (these interested and affected parties will be regarded as registered interested and affected parties);
	3. allow a minimum of 30 days as a commenting period for these interested and affected parties;
	4. obtain written comment from all relevant Organs of State and the Local Authority; and
	5. respond to comments received and the proof of the public participation including all comments received and responses provided thereto must be submitted to the Competent Authority.

**DEPARTMENTAL DETAILS**

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| **CAPE TOWN OFFICE: REGION 1 and REGION 2****(City of Cape Town, West Coast District,** **Cape Winelands District & Overberg District)** | **GEORGE OFFICE: REGION 3****(Central Karoo District & Garden Route District)** |
| The Application must be sent to the following details:Western Cape GovernmentDepartment of Environmental Affairs and Development PlanningAttention: Directorate: Development Management (Region 1)Private Bag X 9086Cape Town, 8000 Registry Office1st Floor Utilitas Building1 Dorp Street,Cape Town Queries should be directed to the Directorate: Development Management (Region 1 and 2) at: Tel: (021) 483-5829 Fax (021) 483-4372 | The Application must be sent to the following details:Western Cape GovernmentDepartment of Environmental Affairs and Development PlanningAttention: Directorate: Development Management (Region 3)Private Bag X 6509George, 6530Registry Office4th Floor, York Park Building93 York StreetGeorgeQueries should be directed to the Directorate: Development Management (Region 3) at: Tel: (044) 805-8600 Fax (044) 805 8650 |

**GENERAL REQUIREMENTS**

**1.1. Locality Map**

A locality map must be attached to the Application Form, as Appendix B. The scale of the locality map must be at least 1:50 000. For linear activities of more than 25 kilometres, a smaller scale e.g. 1:250 000 can be used. The scale must be indicated on the map. The map must include the following:

* an accurate indication of the project site position as well as the positions of the alternative sites, if any;
* road names or numbers of all the major roads as well as the roads that provide access to the site(s)
* a north arrow;
* a legend;
* the prevailing wind direction; and
* GPS co-ordinates (Indicate the position of the proposed activity with the latitude and longitude at the centre point for the site. The co-ordinates should be in degrees and decimal minutes. The minutes should be to at least three decimal places. The projection that must be used in all cases is the WGS-84 spheroid in a national or local projection)

**AppendiCes**

The following appendices must be attached to this Application Form:

|  |  |
| --- | --- |
| **APPENDIX** | **Confirm that Appendix is attached** |
| **Appendix A:** | **Screening Tool Report**  |  |
| **Appendix B:** | **Maps** |  |
| **Appendix C:** | **Existing Approvals** |  |
| **Appendix D:** | **Existing *ad hoc* setback lines** |  |
| **Appendix E:** | **Existing Directives** |  |
| **Appendix G:** | **Zoning of properties** |  |
| **Appendix ….:** | **Any other attachments must be included as subsequent appendices**  |  |

# Section A: ADMINISTRATIVE DETAILS

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| Highlight the Departmental Region in which the intended application will fall | CAPE TOWN OFFICE | GEORGE OFFICE |
| REGION 1 (City of Cape Town, West Coast District) | REGION 2(Cape Winelands District & Overberg District) | REGION 3(Central Karoo District & Garden Route District) |
| 1. | **Duplicate this section where there is more than one Proponent.**Name of proponent: |  |
|  | RSA Identity/ Passport Number: |  |
|  | Name of contact person for proponent (if other): |  |
|  | RSA Identity/ Passport Number: |  |
|  | Company/ Trading name/State Department/Organ of State : |  |
|  | Company Registration Number: |  |
|  | Postal address: |  |
|  |  |  | Postal code: |
|  | Telephone: | ( ) | Cell: |
|  | E-mail: |  | Fax: ( ) |
|  | Company of EAP: |  |
| 2. | EAP name: |  |
|  | Postal address: |  |
|  |  |  | Postal code: |
|  | Telephone: | ( ) | Cell: |
|  | E-mail: |  | Fax: ( ) |
|  | Qualifications: |  |
|  | EAPASA registration no: |  |
| 3. | **Duplicate this section where there is more than one landowner** Name of landowner: |  |
|  | Name of contact person for landowner (if other): |  |
|  | Postal address: |  |
|  | Telephone:E-mail: |  | Postal code: |
| ( ) | Cell: |
|  | Fax: ( ) |
| 4.  | Name of Person in control of the land: |  |
|  | Name of contact person for person in control of the land: |  |
|  | Postal address: |  |
|  |  |  | Postal code: |
|  | Telephone: | ( ) | Cell: |
|  | E-mail: |  | Fax: ( ) |
| 5. | **Duplicate this section where there is more than one Municipal Jurisdiction** Municipality in whose area of jurisdiction activity will fall: |  |
|  | Contact person:Postal address:TelephoneE-mail: |  |  |
|  |  |
|  | Postal code: |
| ( ) | Cell: |
|  | Fax: ( ) |
|  |

**SECTION B: DETAILS OF CURRENT ACTIVITIES/EXISTING DEVELOPMENT**

|  |  |  |  |
| --- | --- | --- | --- |
| 1.  | Do you have any approvals for the new development? If yes, explain and attach a copy/ies as Appendix C. | YES | NO |
|  |
| 2. | Do you have any approvals for the existing development? If yes, provide details of all approvals and attach a copy/ies as Appendix C. | YES | NO |
|  |
| 3. | Is the development part of a bigger lawfully approved and commenced with development? If yes, provide details of all approvals and attach a copy/ies as Appendix C. | YES | NO |
|  |
| 4.  | Have any activities physically commenced on the site/s? | YES | NO |
| 5.  | List the date of commencement of these activities (dd/mm/yy) below. |
|  |
| 6. | Clearly describe the commencement of these activities. |
|  |
| 7.  | Clearly describe the current state of the site/s/route (This must be supported by recent colour photographs). |
|  |
| 8.  | Describe the existing vegetation/ground cover. |
|  |
| 9.  | Have any *ad hoc* setback lines in terms of the NEMA EIA Regulations, been adopted by the Competent Authority for the subject site/s/route? (If yes, copies MUST be attached to this checklist as Appendix D). | YES | NO |
|  |
| 10. | Have any Directives under Section 28 of the NEMA (as amended) been issued by the Competent Authority for the subject site/s/route? (If yes, copies MUST be attached to this checklist as Appendix E). | YES | NO |
| 11.  | Have any Directives under Section 30A of the NEMA (as amended) been issued by the Competent Authority for the subject site/s/route? (If yes, copies MUST be attached to this checklist as Appendix E). | YES | NO |
|  |
| 12.  | Have any Directives under Section 24G of the NEMA (as amended) been issued by the Competent Authority for the subject site/s/route? (If yes, copies MUST be attached to this checklist as Appendix E). | YES | NO |
|  |
| 13.  | Describe the current land **use** of the proposed site(s) for the proposed development. |
| Please explain: |
|  |
| 14.  | Describe all the surrounding and abutting land **uses**. |
| Please explain: |
|  |
| 15.  | Is the current land use lawful? |  YES |  NO |
| If no, explain: |
|  |

**SECTION C: PROJECT DETAILS**

|  |  |
| --- | --- |
| 1.  | Does the proposed development entail the expansion or changes to an existing lawful facility or the development of a new facility? |
| If yes, please explain: |
| 2. | Does the proposed development entail the expansion of an existing lawful development footprint or the “like for like replacement” of anything existing? | YES | NO |
|  |
| 3. | Provide a detailed description of the proposed development and its associated infrastructure. A clear, accurate and comprehensive description will obviate any requests for additional information by the Competent Authority. |
|  |
| 4. | Is the proposed development: |
| 4.1 | a linear activity? | YES | NO |
| 4.2 | an activity directly related to prospecting or exploration of a mineral and petroleum resource or extraction and primary processing of a mineral resource? | YES | NO |
| 4.3 | a strategic integrated project (SIP) as contemplated in the Infrastructure Development Act, 2014 (Act No. 23 of 2014)? | YES | NO |
| 5. | Property location of all proposed sites: |  |
| 6. | Farm/Erf name(s) & number(s) (including portion) of all proposed sites: |  |
| 7. | Property size(s) (m2) of all proposed sites: |  |
| 8. | What is the existing lawfully development footprint size in m2? |  |
| 9. | Development footprint size(s) in m2 (i.e. thetotal area of land to be physically cleared for the proposed development (including associated infrastructure). Provide clear details of the required footprint). |  |
| 10. | SG 21 Digit code(s) of all proposed property(ies): |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 11.  | Coordinates of all proposed sites: Latitude (S)Longitude (E) | o | ‘ | “ |
| o | ‘ | “ |
| **Note:** Coordinates must beprovided in degrees, minutes and seconds using theHartebeesthoek94 WGS84 co-ordinate system**.** Where numerous properties/sites are involved (e.g. linear activities), you may attach a list of property descriptions and street addresses to this form. |

**SECTION D: POTENTIAL LISTED ACTIVITIES THAT YOU REGARD MAY BE APPLICABLE TO THE PROPOSED DEVELOPMENT**

All activities listed in terms of the NEMA EIA Regulations that may be associated with the proposed project must be provided below.

|  |  |  |
| --- | --- | --- |
| Activity No(s): | Provide the relevant **Basic Assessment Activity(ies)** as set out in **Listing Notice 1**  | Describe the portion of the proposed project to which the applicable listed activity relates. |
|  |  |  |
|  |  |  |
|  |  |  |
| Activity No(s): | Provide the relevant **Basic Assessment Activity(ies)** as set out in **Listing Notice 3**  | Describe the portion of the proposed project to which the applicable listed activity relates. |
|  |  |  |
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| Activity No(s): | Provide the relevant **Scoping and EIA Activity(ies)** as set out in **Listing Notice 2**  | Describe the portion of the proposed project to which the applicable listed activity relates. |
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**SECTION E: planning context**

Note: In instances where more than one zoning is applicable, attach a list or map of the properties that indicates their respective zoning as Appendix F**.**

|  |  |  |  |
| --- | --- | --- | --- |
| 1.  | What is the current zoning of the property? |  |  |
| 2.  | Is a rezoning application required? | YES | NO |
| 3.  | Is any other land use approval(s) (e.g. consent) required? | YES | NO |
| If yes, provide details: |
|  |
| 4.  | Is the property in an urban area? | YES | NO |
| 5.  | Is the activity permitted in terms of the property’s existing land use rights? | YES | NO |
| Please explain |
|  |
| 6. | Are there any building restrictions in terms of the applicable Municipal By-laws? | YES | NO |
| Please explain: |
|  |
| 7.  | Will the activity be aligned with the following: |
| 7.1  | The Provincial Spatial Development Framework (PSDF) | YES | NO |
| Please explain: |
|  |
| 7.2  | The Spatial Development Framework of the Local Municipality | YES | NO |
| Please explain: |  |
|  |  |
| 7.3  | The urban edge as delineated in the Municipality’s Spatial Development Framework | YES | NO |
| Please explain: |
|  |
| 7.4  | An Environmental Management Framework (EMF) | YES | NO |
| Please explain: |
|  |
| 7.5  | Any other Policies, Plans, Guidelines, Spatial Tools, Development Planning Frameworks and instruments applicable to the development. | YES | NO |
| Please explain: |
|  |
| 7.6  | Are any Amendments of the above-mentioned required? | YES | NO |
| Please explain: |
|  |

**SECTION F: EXISTING BIOPHYSICAL CONTEXT**

|  |  |  |
| --- | --- | --- |
| 1. | What is the distance in metres from the closest property boundary to the high-water mark/watercourse and estuary? | (m) |
| 2. | Is there evidence of existing erosion? | Yes | No |
| If yes, explain (include pictorial evidence): |
|  |
| 3.  | Has there been any previously implemented erosion protection measures? | Yes | No |
| If yes, please explain: |
| 4.  | What is the existing height above sea level, or above the watercourse? | (m) |
| 5.  | What is the distance in metres of the closest point of the proposed development to the known storm surge high-water mark or flood-lines? | (m) |
| 6.  | Will the proposed development block public access to the coast? | Yes | No |
| If yes, explain: |
|  |
| 7.  | Are there any servitudes registered on the property?. | Yes | No |
| Please explain: |
|  |
| 8.  | Is the site prone to flooding or inundation from the sea/watercourse? Explain including dates of most recent events? | Yes | No |
| Please explain: |
|  |
| 9. | Describe the type of sea shore (sandy, rocky, mixed etc.) or watercourse. (Attach photographs) |
| Please explain: |
|  |
| 10. | Describe the shape of the seashore or watercourse (concave, convex, meandering etc.) (Attach photographs) |
| Please explain: |
|  |
|  11. | Describe the type of substrate of the sea shore or watercourse (eg, very fine sand, coarse sand, very coarse, pebbles) (Attach photographs). |
| Please explain: |
|  |
| 12. | Provide a description of the coastal zone / riparian zone and the existing vegetation. Provide pictorial evidence. |
|  |
| 13. | Does the site form part of a Critical Biodiversity Area?  | Yes  | No |
| Please explain: |
|  |
| 14. | Does the proposed development lie within coastal public property, the coastal protection zone or coastal access land. | Yes | No |
| Please explain: |
|  |

**SECTION G: ENVIRONMENTAL IMPACTS**

|  |  |
| --- | --- |
| 1.  | Describe any **negative** environmental impacts that may occur if the request is granted. Information on any increases in air emissions, waste generation, discharges to water and impacts of the natural or cultural environment such as pollution must be included. |
| Please explain: |
|  |
| 2.  | Describe any **negative** environmental impacts that may occur if the request is **not** granted (e.g. Continued erosion). |
| Please explain: |
|  |
| 3.  | Describe any **positive** environmental impacts that may occur if the request is granted. Information on any reduction in the ecological footprint, air emissions, waste generation and discharges to water, rehabilitation or coastal erosion protection measures must be included. |
| Please explain: |
|  |
| 4.  | Describe what investigations or assessments have been undertaken (if any) to inform this request. |
| Please explain: |
|  |
| 5.  | Are there any existing local authority building setbacks lines, or other in place?  | Yes | No |
| If yes, explain: |
|  |
| 6.  | Clearly describe what line you propose for the Competent Authority to adopt as a setback line (This **MUST** be supported by a map, in both hard and soft copy (preferably 1:10 000 or larger) clearly showing the proposed line and proximity to the high-water mark of the sea/ watercourses as well as any lines in terms of f above. If a clear representation of this proposed line on a map is not provided, it will be requested as additional information. |
|  |
| 7.  | Explain how climate change concerns have been considered in the development of the property/ies. |
| Please explain: |
|  |
| 8.  | Explain what water-saving measures will be included in the development of the property/ies. |
| Please explain: |
|  |

**SECTION H: DECLARATIONS**

1. **DECLARATION OF The Proponent**

 **Note:** Duplicate this section where there is more than one proponent.

I …………………………..…………ID number…………………………………, in my personal capacity or duly authorised theretohereby declare/affirm that:

* the information provided or to be provided as part of this checklist, is true and correct;
* I am fully aware of my responsibilities in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (“NEMA”), the Environmental Impact Assessment Regulations, as defined in Chapter 5 of NEMA (as amended) and any relevant Specific Environmental Management Act and that failure to comply with these requirements may constitute an offence in terms of relevant environmental legislation;
* I am aware that it is an offence in terms of Section 24F of the NEMA should I commence with a listed activity prior to obtaining an Environmental Authorisation;
* I am aware of my general duty of care in terms of Section 28 of the NEMA; and
* I will be responsible for the costs incurred in complying with the NEMA EIA Regulations and other environmental legislation including but not limited to –
	+ costs incurred for the appointment of the EAP or any person legitimately contracted by the EAP; and
	+ costs in respect of specialists if any.

Signature of the Proponent: Date:

Name of company (if applicable):

# 2. DECLARATION OF THE environmental assessment practitioner (“EAP”)

I ………………………………………… EAPASA registration no:…………………………………., as the appointed EAP hereby declare/affirm that:

* the information provided or to be provided as part of this checklist, is true and correct;
* I have disclosed/will disclose, to the Proponent, the specialist (if any) and the Competent Authority, all material information that have or may have the potential to influence the with respect to the proposed development;
* I have ensured/will ensure the inclusion of inputs and recommendations from any specialists in respect of the checklist, where relevant;
* I am aware that it is an offence in terms of Section 24F of the NEMA should the Proponent commence with a listed activity prior to obtaining confirmation of the definition/adoption of an *ad ho*c development setback line in terms of the NEMA EIA Regulations; and
* I am aware of my general duty of care in terms of Section 28 of the NEMA.

Signature of the EAP: Date:

Name of company (if applicable):