

ANNEXURE A: CAPENATURE'S GUIDELINES TO FACILITATE REVIEW OF SUBMITTED APPLICATIONS

The purpose of this annexure is to provide stakeholders with guidelines to adequately consider the biodiversity and ecological infrastructure of the Western Cape when drafting development applications, and to assist stakeholders and planners to incorporate the Western Cape Biodiversity Spatial Plan¹ in planning and decision-making. Note that the Western Cape Biodiversity Spatial Plan was officially adopted on 12 December 2024 (Provincial Gazette Extraordinary no. 9017, 13 December 2024).

I. Important sources of biodiversity information

It is recommended that all EAPs and biodiversity specialists providing EIA related reports for review make use of the important sources below. The relevant recommendations and/or actions as stipulated in the documents below should be critically considered, and relevant recommendations implemented for any authorisation process undertaken where biodiversity could potentially be impacted and environmental assessment is required. By consulting these documents and meeting the requirements for submission of accurate and relevant information, EAPs, specialists and stakeholders support efficient and accountable decision-making.

- I.1 Notice of the requirement to submit a report generated by the national web based environmental screening tool in terms of section 24(5)(h) of the National Environmental Management Act, 1998 (Act no. 107 of 1998) and regulation 16(1)(b)(v) of the Environmental Impact Assessment Regulations, 2014, as amended (Notice no. 961, Government Gazette no. 42561, 05 July 2019).
- I.2 Procedures for the assessment and minimum criteria for reporting on identified environmental themes in terms of sections 24(5)(a) and (h) and 44 of the National Environmental Management Act, 1998, when applying for environmental authorisation (Notice no. 320, Government Gazette no. 43110, 20 March 2020).
- I.3 Procedures for the assessment and minimum criteria for reporting on identified environmental themes in terms of sections 24(5)(a) and (h) and 44 of the National Environmental Management Act, 1998, when applying for environmental authorisation (Notice no. 1150, Government Gazette no. 43855, 30 October 2020).
- I.4 Amendment to the protocols for the specialist assessment and minimum report content requirements for environmental impacts on terrestrial animal and plant species in terms of sections 24(5)(a) and (h) and 44 of the National Environmental Management Act, 1998 (Notice no. 3717, Government Gazette no. 49028, 28 July 2023).

¹ <https://www.capenature.co.za/western-cape-biodiversity-spatial-plan>

- I.5 The Western Cape Biodiversity Spatial Plan including supplementary resources².
- I.6 South African National Biodiversity Institute (SANBI). 2020. Species Environmental Assessment Guideline. Guidelines for the implementation of the Terrestrial Fauna and Terrestrial Flora Species Protocols for environmental impact assessments in South Africa. South African National Biodiversity Institute, Pretoria. Version 3.1. 2022. (The latest version should be used).
- I.7 Holmes, P.M., Esler, K.J., Geerts, S., Ngwenya, D.K., Rebelo, A.G., Dorse, C., van der Merwe, J.R., Jacobus H., Stuart A., Grey, P. 2022. Guidelines for restoring Lowland Sand Fynbos ecosystems. Stellenbosch: Stellenbosch University, Department of Conservation Ecology and Entomology³.
- I.8 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.
- I.9 Harris, L.R., Holness, S.D., Kirkman, S.P., Sink, K.J., Majiedt, P., Driver, A. 2022. National Coastal and Marine Spatial Biodiversity Plan, Version 1.2 (Released 12-04-2022): Technical Report. Nelson Mandela University, Department of Forestry, Fisheries and the Environment, and South African National Biodiversity Institute. South Africa. 280 pp.⁴ (The latest version should be used).
- I.10 The latest National Biodiversity Assessment⁵ which provides information on the state of South Africa's threatened ecosystems.
- I.11 The most recent conservation plans, and their associated reports and guidelines available at the SANBI Biodiversity GIS Unit website⁶.
- I.12 Job, N., Mbona, N., Dayaram, A., Kotze, D. 2018. Guidelines for mapping wetlands in South Africa. SANBI Biodiversity Series 28. South African National Biodiversity Institute, Pretoria⁷.
- I.13 South African National Biodiversity Institute and Department of Water and Sanitation 2016. Wetland Offsets: A Best Practice Guideline for South Africa. Prepared by D Macfarlane, SD Holness, A von Hase, S Brownlie, JA Dini, V Kilian. WRC Report No. TT 660/16⁸.
- I.14 The National Biodiversity Offset Guideline⁹ (Notice no. 3569, Government Gazette no. 48841, 23 June 2023).
- I.15 The Western Cape Provincial Spatial Development Framework (2014) (Department of Environmental Affairs & Development Planning)¹⁰.
- I.16 The Mining and Biodiversity Guideline (2013), which outlines six principles that should be applied during any stage of mining for decision-making. The document uses biodiversity information for decision-making throughout the mining cycle¹¹.
- I.17 The Western Cape Land Use Planning Guidelines: Rural Areas (2019) aims at Safeguarding priority biodiversity areas and their functionality and ecological infrastructure and ensuring sustainable development in rural locations throughout the Western Cape¹².

² <https://www.capenature.co.za/western-cape-biodiversity-spatial-plan>

³ <https://scholar.sun.ac.za/handle/10019.1/124162>

⁴ https://cmr.mandela.ac.za/cmr/media/Store/documents/EBSA/CBA%20Map%20v1/NCMSBPV1.2_Technical-report.pdf

⁵ <https://nba.sanbi.org.za/index.html>

⁶ <http://bgis.sanbi.org> or email BGISHelp@sanbi.org

⁷ <http://opus.sanbi.org/handle/20.500.12143/6086>

⁸ http://www.wrc.org.za/wp-content/uploads/mdocs/TT%20660%20-%20Jo_web.pdf

⁹ <https://cer.org.za/wp-content/uploads/1999/01/NEMA-National-Biodiversity-Offset-Guideline-23-June-2023.pdf>

¹⁰ <https://www.westerncape.gov.za/eadp/spatial-planning>

¹¹ <https://cer.org.za/virtual-library/government-documents/mining-and-biodiversity-guideline-mainstreaming-biodiversity-into-the-mining-sector-2013>

¹² <https://www.westerncape.gov.za/eadp/documents>

2. Biodiversity 'red flags' in the Western Cape

The following factors must be considered during project planning and assessment:

- a) The following habitats are considered highly sensitive and should ideally be avoided when planning a development to minimize highly significant impacts on biodiversity:
 - i. Rivers, wetlands, flood plains, estuaries, tidal flats or salt marshes and groundwater-dependent communities or ecosystems.
 - ii. Representative habitat in Critically Endangered, Endangered and Vulnerable ecosystems.
 - iii. Any area that has been identified as a Critical Biodiversity Area or Ecological Support Area I as identified in the Western Cape Biodiversity Spatial Plan.
 - iv. Any other special habitats that may contain a unique assemblage of species. This could include among others, dolomite outcrops, quartz or ferricrete patches.
 - v. Any habitat that may contain rare, threatened or range-restricted botanical 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).
 - vii. Remaining natural forest habitat without approval from the Department of Forestry Fisheries and Environment as the custodian of forestry resources in South Africa.
- 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 may be considered unacceptable as this may ultimately cause the loss of species. In terms of section 12 (1) and 2 (a) of National Veld and Forest Act¹³, where appropriate, adequate fire-breaks must be prepared and maintained around the property to reasonably prevent the spread of unwanted fires in the area. The 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. Landowners are encouraged to apply for membership with their local Fire Protection Association (FPA) and EAPs are encouraged to obtain comment from relevant FPAs on development applications.
- c) Declared Mountain Catchment Areas (MCAs) are considered protected areas in terms of NEM:PAA¹⁴ for the purpose of preserving the catchments for water provision, therefore activities which may affect the quality or volume of water downstream of any of these regions is not desirable. Development within MCAs could include among others, dams, buildings, hard

¹³ National Veld and Forest Act 1998 (Act 101 of 1998) Government Gazette: 19515

¹⁴ National Environmental Management: Protected Areas Act 2003 (Act 57 of 2003) Government Gazette: 26025

infrastructure, canalization, cut-off drains and cultivation. The Western Cape Biodiversity Spatial Plan (WCBSBP) categories are not mapped within formally protected areas such as MCAs, as the objectives of the Mountain Catchment Areas Act¹⁵ 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. In addition to which, the purposes of NEM:PAA (to be read, interpreted, and applied in conjunction with the NEM:BA¹⁶), 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) The potential impact of the proposed development on Strategic Water Source Areas as well as local scale surface and ground water resources must be rigorously assessed by relevant specialists including an aquatic/freshwater specialist and/or ground water specialist and should include the cumulative impact if other developments are also taking place in an area. Groundwater use for bulk supply purposes and irrigation must be assessed rigorously with specific reference to the possible groundwater-surface water interfaces. Groundwater 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 yield¹⁷.
- 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. Applications proposing rehabilitation must have a complete detailed rehabilitation plan appended to submitted documentation. The rehabilitation plan needs to include an assessment of the rehabilitation potential of the habitats found on site, as well as the methodology to be used, and evidence by example of other cases in which the methodology has been successfully implemented that are compared and contrasted to the rehabilitation proposed in the application in question. The proposed end use and associated habitat condition needs to be clearly stated as these will inform the associated impacts of the proposal. In the case of mining expansion applications, applicants need to demonstrate that adequate rehabilitation has occurred in previous mined out areas.

¹⁵ Mountain Catchment Areas Act 1970 (Act 63 of 1970) Government Gazette: 2858

¹⁶ National Environmental Management: Biodiversity Act (Act 10 of 2004) Government Gazette: 26436

¹⁷ 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.

- f) Mining and prospecting in a registered protected area is restricted as per NEM:PAA. CapeNature will not support any mining or prospecting application within a protected area.
- g) CapeNature protected areas have a Zone of Influence (ZOI) comprised of properties along the reserve boundary. The purpose of the ZOI is to ensure that the protected area is integrated into the landscape so that land and water use planning take due consideration of the protected area's objectives. The ZOI is intended to integrate mechanisms in the landscape that enable protected area expansion, the maintenance of existing expansion nodes, and seeks to proactively encourage compatible land and water use in collaboration with relevant stakeholders. Proposed development or such relevant applications should consider the ZOI and the context of the development in relation to the protected area.

3. Commissioning of biodiversity specialists

The national web-based environmental screening tool¹⁸ and the procedures for the assessment and for reporting on identified environmental themes¹⁹ must be used to determine the biodiversity specialist input required for the proposed development. However, please note that certain themes such as coastal/marine ecosystems are not included in the screening tool, and the inputs of commenting authorities are important in this regard. CapeNature requests that specialists be asked to review the information in the EAP's assessment report to be submitted for decision-making to confirm that their opinion has been adequately reflected. CapeNature also requests the following be included in biodiversity specialist reporting, to provide adequate consideration of the mitigation hierarchy:

3.1 Ecological constraints analysis

CapeNature requests that botanical, faunal, avifaunal, aquatic, marine, wetland, estuarine, and terrestrial biodiversity specialist assessments include a constraints analysis of the ground-truthed sensitive areas within the area influenced by the proposed development and/or activity, to determine the ecological sensitivity constraints on site. Such a constraints/sensitivity analysis must:

- i. Take guidance from the latest version of the South African National Biodiversity Institute Species Environmental Assessment Guideline²⁰, and utilise the Western Cape Biodiversity Spatial Plan as a baseline of broad scale ecological sensitivity.
- ii. Provide a desktop literature and database survey regarding sensitive habitats and/or species in the project area of influence.

¹⁸ <https://screening.environment.gov.za/screeningtool/#/pages/welcome>

¹⁹ Government Gazette 43110 -

https://www.dffe.gov.za/sites/default/files/gazetted_notices/nema_environmentalthemes_reportingcriteria_g43110_gn320.pdf

²⁰ <https://bgis.sanbi.org/Projects/Detail/232>

- iii. Provide an indication and spatial delineation of areas of high, medium, and low sensitivity based on specialist assessment.
- iv. Provide an indication of areas to be altogether avoided (no-go areas). No-go areas must include an adequate buffer as determined by a qualified specialist. No-go areas must provide for ecological connectivity to other natural areas within the landscape.
- v. Provide an indication on the suitability of the proposed development and/or location of development infrastructure and/or activities considering the sensitivity analysis.

3.2 Wetland assessments

Wetland assessments should utilise the Department of Water and Sanitation Updated Manual for the Identification and Delineation of Wetlands and Riparian Areas²¹.

The delineation of wetland should entail identifying the full extent of wetland, including its boundaries. A wetland extent should be considered to extend to the edge of its temporary boundary, not just the seasonal or permanent boundary edges.

- Assessment methodology should include:
 - Plant community assessment, including identification of dominant species and wetland indicator species (both facultative and obligate species) as per Department of Water and Sanitation Updated Manual for the Identification and Delineation of Wetlands and Riparian Areas.
 - Soil profile assessments (using a handheld soil auger), using a Munsell chart for colour descriptions if possible/available. The soil texture should be described, and wetland soil identifiers should be noted and discussed. Photos of the soils and methods being implemented should be included in the report.
 - An assessment of wetland ecological condition, reporting on the Present Ecological State (PES), based on the WET-Health tool version 2.0 (Macfarlane, Ollis and Kotze (2020))²².
 - Identify and report on the threat status of the regional wetland type (using the most recent National Wetlands Map).
 - New methods and assessments are continuously being developed in this field and CapeNature recommends that specialists continue to remain informed and up to date on the newest methods developed and would support the implementation and use of any new applicable methodologies.

3.3 Freshwater assessments

River Health:

- The South African Scoring System version 5 (SASS 5) should preferably be used to determine PES. In cases where there is no water in the system to conduct SASS 5 it is recommended that other applicable scientific peer reviewed river health assessment methods should be used.

²¹ DWAF (2008) Updated Manual for the Identification and Delineation of Wetlands and Riparian Areas, prepared by M. Rountree, A. L. Batchelor, J. MacKenzie and D. Hoare. Report no. XXXXXXXXXX. Stream Flow Reduction Activities, Department of Water Affairs and Forestry, Pretoria, South Africa.

²² Macfarlane, D.M., Ollis, D.J. and Kotze, D.C. (2020) WET-Health (version 2.0) A refined suite of tools for assessing the present ecological state of wetland ecosystems: Technical Guide. rep. Gezina: Water Research Commission.

- Provide a plot of SASS score (x-axis) and Average Score Per Taxon (ASPT) (y-axis) as per Dallas and Day (2007)²³ and Dallas (2007)²⁴.
- All relevant data should be uploaded to the Freshwater Biodiversity Information System (FBIS) database.
- River health estimates should be reported as per Kleynhans, Thirion and Moolman (2005)²⁵.

Fish assessments:

- Fish assessments must be humane and should be conducted using best available peer reviewed scientific methods.

3.4 Biodiversity specialist requirements

A biodiversity specialist should:

- i. Be competent at interpreting and evaluating information and be able to explain the direct and indirect consequences of an activity on biodiversity.
- ii. Have appropriate formal training in their field of expertise.
- iii. Have sufficient practical experience working in the specific ecosystems of the affected region and thereby add value to the planning and design of the proposed project/activity.
- iv. Be able to trace impact pathways and identify indirect or cumulative impacts and consider ecosystem goods and services.
- v. Have good knowledge relating to assessment techniques and to relevant legislation, policies and guidelines.
- vi. Be independent.
- vii. Be registered with the South African Council for Natural Scientific Professions (SACNASP), in a field of practice relevant to the type of specialist study being conducted.

²³ Dallas, H.F. and Day, J.A., 2007. Natural variation in macroinvertebrate assemblages and the development of a biological banding system for interpreting bioassessment data—a preliminary evaluation using data from upland sites in the south-western Cape, South Africa. *Hydrobiologia*, 575, pp.231-244.

²⁴ Dallas, H.F., 2007. River health programme: South African scoring system (SASS) data interpretation guidelines. Report produced for the Department of Water Affairs and Forestry (Resource Quality Services) and the Institute of Natural Resources.

²⁵ Kleynhans, C.J., Thirion, C. and Moolman, J., 2005. A Level I river Ecoregion classification System for South Africa, Lesotho and Swaziland. Department of Water Affairs and Forestry, Pretoria, South Africa. Issue Report no. N/0000/00/REQ0104. Resource Quality Services.

4. Permit requirements

CapeNature is the regulatory authority in the Western Cape regarding issuing permits for collecting/capture/possession/translocating/uprooting fauna and flora, as well as hunting in terms of the Nature and Environmental Conservation Ordinance no. 19 of 1974 (as amended)²⁶. CapeNature also issues permits for export and/or importation of species as per the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Relevant permits must be applied for if development activities will require moving or removing flora and/or fauna, such as search and rescue activities, among others. To obtain such permits please contact the relevant Conservation Off-Reserve officials at the nearest CapeNature Regional Office or Permit Office on 087 087 9262. The CapeNature website provides information on permit requirements and contact information at <https://www.capenature.co.za/permits>.

5. Seashore leases

As per the Sea-shore Act (Act 21 of 1935), infrastructure below the low-water mark of the sea (e.g. jettys, slipways) or within estuarine functional zone, require a lease agreement to be entered into between CapeNature and the proponent. The Sea-shore Act will be implemented until such time as it is repealed by the Western Cape Biodiversity Act (Act 6 of 2021).

Note that Sea-shore leases are considered only once confirmation is received that environmental authorisation for the proposed activity is not required or if environmental authorisation has been received and includes authorisation for the proposed activity for which a Sea-shore lease is being sought. Confirmation of the requirement of environmental authorisation for the proposed activity/development must be obtained from the relevant competent authority by the proponent.

Please note that Sea-shore lease applications will require public participation process to be conducted at the cost of the proponent. This is in terms of the Sea-Shore Act, 1935 (Act No 21 of 1935), section 3(5),

“Before any lease is entered into under subsection (1) or any permit is granted under subsection (2), the Minister shall, at the expense of the person with or to whom it is proposed to enter into such lease or to issue such permit, cause a notice to be published in the Gazette and in not less than one newspaper circulating in the neighbourhood wherein the portion of the sea-shore or the sea concerned is situated, wherein-

²⁶ The Western Cape Biodiversity Act, 2021 and its promulgated regulations will replace and repeal this Ordinance. Once the repeal and replacement is proclaimed, the relevant legislation in terms of the future proclamation will apply.

- (a) the proposal to enter into the lease or to issue the permit is made known;
- (b) the place where and the times at which full particulars of the proposed lease or permit will be open for inspection are specified; and
- (c) it is specified that objection to the proposed lease or permit may be lodged with a person specified in the notice, before a date so specified, which shall be not less than 30 days after the date on which the notice is published.”

For guidance regarding the application for Sea-shore leases, please contact the relevant Land-Use Scientist as indicated in the letter attached to this annexure.