

Department of Environmental Affairs & Development Planning

**POLICY GUIDELINES for Golf Course & Polo Field  
DEVELOPMENT April 2005**

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GOLF COURSES & POLO FIELDS IN THE WESTERN CAPE POLICY  
GUIDELINES  
FINAL DRAFT APRIL 2005

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## **1 Preamble**

### **GOLF COURSES & POLO FIELDS IN THE WESTERN CAPE POLICY GUIDELINES FINAL DRAFT APRIL 2005**

The Western Cape has recently seen a significant increase in development pressure, resulting from the stable political and economic climate combined with opportunities offered by the province's scenic splendour and natural characteristics. In particular the province has seen a significant investment in the high-end of the property market, particularly in the form of various types of estates, most notably golf estates. There has recently been an increase in polo field developments in the Garden Route, specifically in the Plettenberg Bay area and concerns have been raised about the growth in these developments as well. These are relatively new forms of development, not yet comprehensively addressed by spatial planning. As a result of this fact and the concerns that were raised about the growth in golf course and polo field developments Western Cape Provincial Government, through the Department of Environmental Affairs & Development Planning (D:E&AP) launched an investigation in the form of a Rapid Review. The purpose of this study was to examine the environmental and socio-economic impacts of these developments. A number of issues were investigated in the rapid review, ranging from the benefits of such developments and a range of concerns and impacts associated with them. Golf, polo and golf estate developments contribute to economic growth and job creation in the Western Cape, through attracting investment and tourists (both local and international), creating employment and procuring goods and services all of which have multiplier effects. In addition some developments have also contributed to the rehabilitation of environmentally degraded areas. Golf courses do play a role in contributing to the open space system in urban areas. Some of these developments have contributed to the upgrading of bulk infrastructure such as roads and sewage treatment plants, which may benefit surrounding communities. These developments also have the potential to deplete water resources, impact on biodiversity, take up and fragment agricultural land, impact on scenic landscapes and routes and heritage resources, displace and divide especially rural communities, impact on access to resources such as the coast, contribute towards sprawl and perpetuate divisive patterns of development through the segregation created by security measures. These policy guidelines should be seen against the background of the challenge put forward by both the President and the Premier to transform the country and the Province in a meaningful way. In making this call, both have pointed to the need for innovation and for new approaches to development to be formulated. A particular challenge is that of transforming the spatial, social and economic distortions created through apartheid. The Provincial Minister of Environmental Affairs & Development Planning has made her intent to change the way business is done in the Province clear, both in speaking about the Provincial Spatial Development Project and the Provincial Law Reform Project.

Thus these policy guidelines should be seen in the context of the message and ethos put forward by the President, the Premier and the Provincial Minister to transform the country and the Province such that all aspects of our society should benefit from economic growth and development and the country's natural resources. These policy guidelines are intended to be a contribution towards national and provincial goals of appropriate development and to introduce certainty and consistency into the development process. This means that whilst these policy guidelines need to address existing problems, they are not reactionary in their approach. On the contrary they endeavour to 'stretch the boundary,' with a view to promoting creative and innovative approaches to golf course and polo field developments.

## **2 The Need For Policy Guidelines**

The Western Cape government, in the context of its objective to promote sustainable development and to create 'A home for all in the Western Cape' recognised the need to formulate policy guidelines for golf course and polo field developments. This project was identified as a priority by the Department through its strategic planning process and was placed on its 2003/04 Annual Performance Plan. The urgent nature of the need to investigate golf course and polo field developments was confirmed by Minister Tasneem Essop (Minister of Environmental Affairs & Development Planning) in her 2004 budget speech.

### **2.1 Supporting Sustainable Development**

The sustainability model adopted for the purposes of these policy guidelines is the same as that being used in the Provincial Spatial Development Framework (PSDF) and bio-regional planning as implemented in the Western Cape. It is also considered to be the model that most closely corresponds to the environmental right in South Africa's Constitution.

This model recognises the natural environment as the basis of the existence and survival of humankind (the questions attached to each eclipse have been formulated by the project team for purposes of clarity). A number of international organisations, including the IUCN (World Conservation Union), the IDRC (International Development Research Centre) and UNEP (United Nations Environment Programme) have accepted this model of sustainable development. It is based on the acknowledgement that a high level of ecosystem well-being is essential because the ecosystem supports life. The model does not downplay the importance of human wellbeing, in fact it is based on a wide definition of this concept, which includes human well-being, social health and human development. What it does is to make the point that human health and well-being is directly linked to the 'health' or state of natural systems (Prescott-Allen, 2001). Furthermore, the model also recognises the role of the natural environment in both the material and spiritual well-being of mankind (D:EA& DP, 2003), as is evidenced by the criteria that have been used to formulate sustainable development indicators (UN Division for Sustainable Development, 2001). Since it is particularly difficult to place monetary value on the role that nature plays in the emotional and spiritual well-being of the individual and society, it is regarded as one of the most important roles of government to protect the integrity of the natural resource base for the present and future generations.

The importance of the natural resource base in the context of the pressing social and economic needs in the Western Cape, cannot be overstated, as it is the poor and marginalised who suffer the consequences of resource depletion and environmental impacts the most severely, since many communities are directly dependent on the natural resource base for their livelihood. This is evident internationally as has been shown in successive Human Development Reports prepared by the United Nations Development Programme. The very integrity of the natural resource base (often referred to as the comparative advantage of the Western Cape) is critical to sustain economic growth and address the needs of the poor and vulnerable.

Economic development and job creation are priorities in the Province and are critical objectives in the context of sustainable development. The challenge is to weigh up potentially competing imperatives such as investment and development opportunities against environmental and cultural implications. These policy guidelines are considered an essential tool in supporting the provincial government in making decisions that support sustainable development objectives. This involves taking account of the various interests at play and determining when circumstances warrant a trade-off between competing interests. The provincial government has specifically made the point that its purpose is not to prevent investment in golf course or polo field

developments. Rather it is to ensure that these developments are undertaken in a manner that is in line with sustainable development principles, thereby protecting the interests of the Province's communities and its natural resources.

## **2.2 Strengthening of application and decision-making processes**

The need to strengthen the planning, land use and the Environmental Impact Assessment (EIA) application and decision-making processes is well documented. In various papers, the question of the effectiveness of current planning and EIA processes in promoting sustainable development has been raised. Associated with this broad concern are more specific points or problems that have been raised such as the need to integrate planning and EIA application and decision-making processes and to strengthen the enforcement of conditions attached to decisions (Hattingh and Sellinger 2003; De Villiers and Gubb, 2003; Claasen 2003a). Furthermore, the necessity for taking account of spatial outputs of biodiversity planning (e.g. CAPE CAPE Action for People and the Environment) in land use and environmental application and decision-making processes, which is considered fundamental to achieving sustainable development, has also been highlighted (De Villiers, 2003; De Villiers et. al., 2004)).

Recent research undertaken by the Unit for Environmental Ethics at the University of Stellenbosch has highlighted several concerns in decision-making. Whilst the focus of this study is on environmental decision-making, it also deals with issues relevant to the relationship between environmental and land use application and decision-making processes. Amongst others, inadequate enforcement of legislation and regulations, capacity of decision-makers and unethical relationships between stakeholders, have been identified as problematic areas. Factors such as an ineffective legal and institutional framework, a lack of sensible procedures and lack of defined roles and functions are considered to exacerbate these problems (Hattingh and Sellinger, 2004). Similar concerns have been raised in research undertaken by the School for Public Management and Planning at the University of Stellenbosch (Claasen, 2003b) and by various stakeholders in interviews, workshops and written submissions undertaken for the purposes of the Rapid Review on golf course and polo field developments and this policy guideline document. Similar shortcomings that have been noted in relation to the EIA process in international research through the International Study of the Effectiveness of Environmental Assessment, with key issues being the lack of enforcement of decisions, the fact that impacts are often understated and that public participation is seen as being perfunctory and occurs too late in the process (Sadler, 1995).

Specific issues that emerged from the Unit for Environmental Ethics (University of Stellenbosch), study based on the inputs from various participants are that:

- + Developers obtained the lowest rating for adherence to legislation.
- + Decisions tend to be politically motivated.
- + There is potential for consultants to be biased because they are paid by the developer.
- + The relationship between developers and decision-makers is 'too close.'
- + Developers make inappropriate use of personal contacts within decision-making bodies to get projects approved.
- + There is inconsistency in decision-making.

It is noted in the research that many of these problems can be related to lack of knowledge, awareness and application of policy principles in decision-making (e.g. polluter pays principle, precautionary principle). The research acknowledges that the ethical challenges in decisionmaking is complicated by the different value positions that come into play (e.g. different people place different values on nature, for example). This is an important factor in decision-making, since the credibility of a decision will be strongly influenced by the extent to which 'value issues and clashing interests' have been addressed (Hattingh and Sellinger, 2002; 2004).

All of these factors and shortcomings underscore the value of policy guidelines in strengthening decision-making and enforcement, because they provide clarity on, amongst others:

- + The specific information requirements for EIA and planning applications.
- + The criteria to be applied in decision-making.
- + The responsibilities of applicants and decision-makers.

The policy guidelines are therefore a means for providing clarity to all participants in the process, facilitating transparency since the requirements herein apply to all proposals / applications and serve to strengthen the application and decision-making process through spelling out detailed requirements that are not provided in legislation.

### **2.3 Improving certainty, predictability and consistency**

The need for certainty and predictability is an issue that has consistently been raised in relation to both land use and EIA applications. In this regard, the following is seen as essential:

- + Ensuring consistency in decision-making, with conditions attached to land use and EIA approvals being complementary. In addition, decisions for developments that are similar to one another in terms of their nature, extent and location should be comparable.
- + Timeframes for processing applications need to be reasonable and it is preferable for these to be specified.
- + Decision-making criteria must be clear, applied consistently and transparency in this regard must be ensured.

#### **EXPLANATORY NOTE**

Whilst there are timeframes specified in current land use legislation (i.e. LUPO), this is not the case with the current EIA Regulations. This is likely to change when the new EIA Regulations (promulgated under NEMA) are issued.

## **3 Legislative Context For The Policy Guidelines**

### **3.1 The Constitution of South Africa**

The point of departure for these policy guidelines is provided by the environmental right in the Bill of Rights in the Constitution of the Republic of South Africa (Act 108 of 1996), which reads as follows (Chapter 2, section 24):

“Everyone has the right

- (a) to an environment that is not harmful to their health or well-being; and
- (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that
  - i) prevent pollution and ecological degradation;
  - ii) promote conservation; and
  - iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.”

These policy guidelines are broadly aimed at supporting this environmental right and fall within the ambit of section 24(b)(iii) of the Constitution. The policy guidelines can readily be categorised as one of the 'other measures' which government is obliged by the Constitution to implement to achieve the protection of the environment, for the benefit of future and present generations. These policy guidelines therefore set out the position and requirements that are considered

necessary to give effect to this constitutional obligation. Since the Province has concurrent responsibility (with national government in terms of in terms Schedule 4) for a range of social, economic and environmental matters, policy guidelines such as these are an appropriate means for fulfilling this constitutional mandate.

Furthermore, in dealing with the powers of Provinces (Chapter 6), the Constitution does make provision for the development of mechanisms for the implementation of legislation. Accordingly, section 114(2)(b)(i) states that a provincial legislature must provide for mechanisms to maintain oversight of the exercise of provincial executive authority, including the implementation of legislation. This has relevance to these policy guidelines, since if adopted by the provincial legislature, they would form one such mechanism.

### **3.2 The National Environmental Management Act (Act 107 of 1998) NEMA**

NEMA establishes the basis for environmental governance and sets out the principles for decision-making on matters affecting the environment. It also makes provision for the promulgation of EIA regulations (section 24(5)) and the process of drafting regulations in this regard is almost complete (see also Section 3.3 of this document.). The principles of the Act are provided in section 2 and it is the responsibility of all organs of state to take these principles into account when making decisions that could affect the environment. This means that the Department of Environmental Affairs & Development Planning (D:EA&DP) must bear the NEMA principles in mind when making land use or environmental decisions.

Of the NEMA principles, the following are of particular relevance to these policy guidelines:

- (a) Environmental management must place people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural and social interests equitably (section 2(2)).
- (b) Development must be socially, environmentally and economically sustainable (section 2(3)).
- (c) Environmental management must be integrated, acknowledging that all elements of the environment are linked and interrelated, and it must take into account the effects of decisions on all aspects of the environment and all people in the environment by pursuing the selection of the best practicable environmental option (section 2(4)(b)).
- (d) Environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons (section 2(4)(c)).
- (e) Equitable access to environmental resources, benefits and services to meet basic human needs and ensure human well-being must be pursued and special measures may be taken to ensure access thereto by categories of persons disadvantaged by unfair discrimination (section 2(4)(d)).
- (f) The participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured (section 2(4)(f)).

- (g) Decisions must take into account the interests, needs and values of all interested and affected parties, and this includes recognising all forms of knowledge, including traditional and ordinary knowledge (section 2(4)(g)).
- (h) The social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated, and decisions must be appropriate in the light of such consideration and assessment (section 2(4)).
- (i) Sensitive, vulnerable, highly dynamic or stressed ecosystems, such as coastal shores, estuaries, wetlands, and similar systems require specific attention in management and planning procedures, especially where they are subject to significant human resource usage and development pressure (section 2(4)(g)).

The role of government is recognised in that it is stated that 'the environment is held in public trust for the people, the beneficial use of environmental resources must serve the public interest and the environment must be protected as the peoples' common heritage' (section 2(4)(o)). This ties directly to government's role in protecting the integrity of the natural resource base for the present and future generations, as described in Section 2.1 of these policy guidelines.

Some of the complexities facing decision-makers are that there are contradictions in the NEMA principles, that they are broad and are therefore difficult to define clearly and that not all of the principles relevant or are of equal weight to every development application. Developers and consultants face the same difficulties when endeavouring to address these principles in development proposals. From the perspective of interested and affected parties (I&APs), there is uncertainty as to how the principles will be interpreted and applied in decision-making. One of the means of dealing with this lack of clarity is to develop policy guidelines. In this sense, these policy guidelines serve to provide a norm or default position (i.e. the 'line in the sand') around which developers, decision-makers and I&APs can work. Deviation from this norm would be considered only on the basis of a well-reasoned argument.

### **3.3 The Environment Conservation Act (Act 73 of 1989) and the EIA Regulations**

The current EIA regulatory regime is in a state of flux, since the existing EIA Regulations, promulgated in September 1997 (GN 1182 and 1183), as amended in May 2002, under the Environment Conservation Act 73 of 1989 (ECA) have been repealed by NEMA. This repeal will come into effect from a date to be announced by the Minister, when EIA Regulations that are being drafted in terms of section 24 of the National Environmental Management Act (Act 107 of 1998, as amended) become applicable. Notwithstanding, both the existing EIA Regulations and the proposed new Regulations deal with guidelines:

- EIA Regulations in terms of the ECA: Provision is made for the use of guidelines (Regulation 3(3)(c)) whereby the decision-making authority is responsible for providing the applicant with any guidelines that may be of assistance in fulfilling its obligations in terms of these regulations. This implies that the development of guidelines by the decision-maker is warranted and that both the developer and the decision-maker must take cognisance of guidelines that do exist.
- Draft NEMA EIA Regulations: There are provisions with respect to the use of policies and guidelines in the draft EIA Regulations, which will be promulgated in terms of section 24(5) of NEMA. The intention to strengthen the EIA process through the development of guidelines is clear, since provision in this regard has been retained in all the drafts of the Regulations that have been published. Whilst the wording in these new EIA Regulations may change when they are finally gazetted, based on the draft it can be expected that

there will be provision for the competent authority (i.e. D:EA&DP in the case of the Western Cape) to develop guidelines or policies in respect of 'any activity, group of activities or the process'. Furthermore, such guidelines or policies may be gazetted (refer Regulations 6(2) and 6(3) in the draft EIA Regulations published in December 2004).

Finally, both the existing and proposed EIA Regulations require that the competent authority describe the key factors that led to the decision. One of the roles of these policy guidelines is to support the decision-maker's mind through providing detail and clarity on the issues to be considered when making a decision. This is also of benefit to applicants and interested and affected parties (I&APs), since these policy guidelines provide insight into the key considerations for the decision-maker.

### **3.4 The Development Facilitation Act (Act 67 of 1995) – DFA**

Please see comments below.

The principles and provisions of the DFA support the formulation of policy by provincial authorities. In accordance with section 2, all of the principles set out in section 3 apply throughout South Africa and to all land development, to the actions of the State (which definition includes a province) and a local government body. Principles that are important for the purposes of these policy guidelines are:

- (a) Laws, procedures and administrative practice relating to land development should (section 3(1)(g))-
  - i) be clear and generally available to those likely to be affected thereby;
  - ii) in addition to serving as regulatory measures, also provide guidance and information to those affected thereby;
  - iii) be calculated to promote trust and acceptance on the part of those likely to be affected thereby; and
  - iv) give further content to the fundamental rights set out in the Constitution.
- (b) Policy, administrative practice and laws should promote sustainable land development at the required scale in that they should (section 3(1)(h))
  - i) promote land development which is within the fiscal, institutional and administrative means of the Republic;
  - ii) promote the establishment of viable communities;
  - iii) promote sustained protection of the environment;
  - iv) meet the basic needs of all citizens in an affordable way

Another reason why the DFA is relevant to the golf course and polo field study is that the policy guidelines are a potential mechanism for giving effect to some of the principles in the Act, specifically those that deal with the promotion of efficient and integrated land development. These are set out in section 3(1)(c) and are as follows:

- (i) promote the integration of the social, economic, institutional and physical aspects of land development;
- (ii) promote integrated land development in rural and urban areas in support of each other;
- (iii) promote the availability of residential and employment opportunities in close proximity to or integrated with each other;
- (iv) optimise the use of existing resources including such resources relating to agriculture, land, minerals, bulk infrastructure, roads, transportation and social facilities;

- (v) promote a diverse combination of land uses, also at the level of individual erven or subdivisions of land;
- (vi) discourage the phenomenon of "urban sprawl" in urban areas and contribute to the development of more compact towns and cities;
- (vii) contribute to the correction of the historically distorted spatial patterns of settlement in the Republic and to the optimum use of existing infrastructure in excess of current needs; and
- (viii) encourage environmentally sustainable land development practices and processes.

Finally in section 3(3)(c) provision is made for the Premier to publish for general information provincial policy relating to land development or any aspect thereof which is consistent with the principles set out in or prescribed in terms of the Act, whereupon such principle or policy shall apply in the province on the basis set out in section 2. Currently, only the principles of the DFA are applicable in the Western Cape.

### **3.5 The policy guidelines - future policy and legislative developments**

It is recognised that the Western Cape Province is in a transitional phase due to pending changes in their strategic approach to development and in the legislative arena. Given that it is important to ensure that the policy guidelines remain relevant in this new environment, cognisance has been taken of current thinking, especially with regard to the following:

The Province has initiated a law reform project, the purpose of which is to develop legislation that will integrate land use, environmental and heritage resources application and decision-making processes.

The Provincial Development Spatial Framework (PSDF) is in the process of being developed and will be finalised in June 2005. Current thinking with respect to the PSDF has been taken into account in the development of these policy guidelines, specifically with respect to the location criteria (Section 7 of this document).

An Urban Edge Study has recently been commissioned which is concerned with the drafting of guidelines in relation to urban edges for all towns and cities, and the management of land uses in proximity to the edge.

Based on the above, these policy guidelines will need to be treated as a 'living document', meaning that they should be reviewed against the new integrated law (that results from the law reform project), the PSDF and the Urban Edge Study, once finalised and revised if necessary. In addition, these policy guidelines should serve as an informant for the abovementioned initiatives.

## **4 Objectives Of Policy Guidelines**

The objectives of these policy guidelines are as follows:

- (a) To promote responsible development, both from an environmental and socio-economic perspective, that does not detract from the comparative advantages of the Western Cape.
- (b) To protect the natural resources of the Western Cape.
- (c) To support the implementation of sustainable development principles as reflected in the Bill of Rights in the Constitution (Act 108 of 1996), section 2 of NEMA, section 3 of the

DFA, the Province's development agenda known as iKapa Elihlumayo (the Province's Growth and Development Strategy).

- (d) To support and enhance the implementation of bioregional planning in the Province, as reflected in the Provincial Spatial Development Framework, the National Environmental Management: Biodiversity Act (10 of 2004), the provincial Coastal Zone Policy and Cape Action for People and the Environment as well as municipal integrated development plans.
- (e) To provide for effective decision-making with respect to golf and polo estate developments in all spheres of government, based on the principle of cooperative governance.
- (f) To introduce a level of predictability into the application and decision-making process, by clarifying requirements and providing a good indication of the likely outcome of an application.
- (g) To improve the effectiveness of public participation through providing clarity on the requirements with respect to development applications and decision-making procedures.
- (h) To clarify the role and expectations associated with the decision-making process.

## **5 Status And Applicability Of The Policy Guidelines**

The policy guidelines are aimed at strengthening the legislation that governs golf course and polo estate development in the Western Cape, by setting a standard of best practice for applicants as well as decision-makers, over and above mere legislative compliance. These guidelines are therefore an important tool to support and even enhance the implementation of existing legislation. They are not, nor should they be, a replacement for existing or future legislation.

Accordingly, the purpose of the policy guidelines is to provide detail and information to applicants and decision-makers that will support the achievement of the principles set out in existing legislation. Generally, legislation does not detail precisely how principles should be achieved, primarily because there is no absolute answer in this regard. This is where mechanisms such as policy guidelines are of value, since they provide guiding information that ensure that applications and decisions are informed by these guidelines.

### **SUMMARY OF STATUS**

There is a legal obligation for applicants and decision-makers to take these policy guidelines into account when preparing and deciding upon applications, respectively. These policy guidelines do not replace existing legislation. They do, however, support the implementation of existing legislation.

#### **5.1 Applicability of policy guidelines**

These guidelines are applicable to all developments that include a golf course and polo fields. All parties concerned with the development of golf course and polo field developments have an obligation to take account of these policy guidelines as detailed below (see also Section 3). Furthermore, these policy guidelines must be considered in their entirety.

- (a) Developers in formulating their development proposals and in ensuring that land use planning and EIA applications take cognisance of the application requirements set out in this document.
- (b) Consultants in undertaking the studies required for a land use or EIA application.
- (c) Decision-makers (namely D:EA&DP and municipalities) in evaluating development proposals, particularly in determining the key factors that have led to a particular land use planning or environmental decision.
- (d) There are a number of other parties to which these policy guidelines are also applicable:
  - Investors in and financiers of golf course and polo estate developments
  - Authorities other than the D:EA&DP that issue approvals, authorisations and permits, or comment, in respect of such developments. These include, but are not limited to:
    - ! The heritage authorities, as applicable (e.g. SAHRA, Heritage Western Cape)
    - ! The Department of Water Affairs and Forestry
    - ! The Department of Agriculture
    - ! Cape Nature
    - ! SANParks
    - ! All municipalities in the Province
  - Any party that has an interest in or is affected by golf course and polo field developments (i.e. I&APs).

## **5.2 Use of terminology and the applicability of the policy guidelines**

In accordance with the status of these policy guidelines and their objectives, the document has been written using definitive or specific language. The purpose in doing so is to be 'prescriptive' within the context of providing for certainty, predictability and consistency, thereby avoiding vagueness, ambiguity and difficulties in interpretation. This does not mean that these policy guidelines are masquerading as 'the law'. They are to be read as follows:

- (a) These policy guidelines set out the 'default' position, that is the requirements to achieve ecologically sustainable development and the related objectives of South African legislation as described in Sections 2 and 3. In practical terms, this means that these policy guidelines provide information that clarifies:
  - i) the conditions under which development would ordinarily be approved (with or without conditions) or not be approved (e.g. location criteria in Section 7).
  - ii) the information that is considered essential for evaluating the development proposal from a sustainable development perspective (e.g. application requirements in Section 8).
- (b) The 'default' position is not fixed, as each application must be evaluated in the context of prevailing conditions (e.g. site and its surroundings) or its own merits, as prescribed by the DFA (section 3(1)(j)). Accordingly, where an applicant considers the 'default' position to be inappropriate, the reasons for this view must be documented, in order to facilitate the evaluation of the case on its own merits, by the decision-maker. This provides for the flexibility that is required for and is appropriate to the application of policy guidelines.
- (c) In all cases, the 'default' position is indicated by the use of the term 'must', but represents a desired not an absolute outcome.

- (d) Where 'recommended,' 'advised,' 'should give consideration to' or an equivalent term is used, this refers to an action that is considered to be voluntary (i.e. the developer may decide whether to adopt this practice or not). Such clauses have been included in the policy guidelines by way of providing advice and support for best practice. These are not essential for achieving or meeting the 'default' position.

Where reference is made to the input or requirements of specific bodies and government departments, this applies to the successors of such bodies or departments as well.

## 6 Definitions

This section deals with specific definitions relevant to this document. The definition of all other terms is in accordance with the relevant legislation and if not defined in legislation, the accepted dictionary definition will apply. In this document:

**artificially landscaped areas** are areas that are subject to ongoing active management, namely irrigation, fertilisation and the application of herbicides and pesticides and include polo fields and golf courses (except the rough area where this comprises undisturbed indigenous vegetation).

**Bioregional planning** is an organised process that enables people to work together, think carefully about potential problems of their region, set goals and objectives, define activities, implement projects, take actions agreed upon by the communities, evaluate progress and refine their approach (taken from the Western Cape Province's Bioregional Planning Manual).

**Buffer areas** are made up of endangered and vulnerable ecosystem remnants (determined by Cape Nature and/or SANBI (South African National Biodiversity Institute)) in accordance with the National Spatial Biodiversity Assessment and/or the applicable fine-scale plan) least threatened eco-systems remnants, important areas of bio-diversity and extensive agricultural areas. (This definition reflects the current thinking in the draft PSDF proposals).

**Core areas** are made up of officially proclaimed nature reserves (national, provincial, municipal), biodiversity corridors and critically endangered habitats (determined by Cape Nature and/or SANBI (South African National Biodiversity Institute)) in accordance with the National Spatial Biodiversity Assessment and/or the applicable fine-scale plan) and river corridors. (This definition reflects the current thinking in the draft PSDF proposals).

**Corporate social responsibility** refers to social programmes or initiatives implemented by developers on a **voluntary** basis, and therefore excludes direct social and/or economic benefits that may accrue to the local community due to employment and procurement, which are necessary for the construction and operation of the development/project.

**Decision-maker** means the competent authority responsible for environmental matters in the Province and/or the department responsible for land use management and planning in the Province and/or Municipalities in the Province.

**Designated** means defined, specified, categorised, classed or identified.

**developer or applicant** means the person (including a juristic person) responsible for planning, constructing/implementing and/or operating the development/project.

**Development** means any golf course development and polo estates.

**environmental impact assessment legislation** means any environmental impact assessment requirements published under the Environment Conservation Act (Act 73 of 1989), the National Environmental Management Act (Act 107 of 1998) or any Provincial Act or Regulations which scope includes EIA;

**Golf course** is an area of land used for playing golf or a recreational area primarily used for playing golf with a minimum of nine (9) holes. It consists of a large landscaped area for playing golf.

**Golf estate** is a development that has a golf course and includes residential units and/or resort development.

**Guidelines** means a general rule or advice on how to approach a particular issue or matter.

**Intensive agriculture** is all land put under the plough including orchards, vineyards, forestry plantations, annual crops, pastures, and including land under irrigation.

**Policy** means a description of course or principle of action, or a position adopted or proposed by an organisation, in this case the D:EA&DP.

**Policy guidelines** means a description of the principles and the position that underpins the Province's approach applicable to golf course and polo field developments and the provision of information (guidance) for applicants and decision-makers for achieving the spirit and intent of the aforesaid principles or position adopted.

**Polo field** is an area that has been established for the playing of polo, using horses (i.e. polo ponies) for competitive, practice or recreational purposes.

**Polo estate** is a development that includes a polo field/s with residential units and/or resort development.

**Spatial planning** refers to any planning undertaken in terms of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the Physical Planning Act, 1991 (Act 125 of 1991), or the Municipal Systems Act, 2000 (Act 32 of 2000).

**Traditionaal access** means a path or route that has been used by a community and/or the public for 30 years or more, and ordinarily the public will have acquired public access rights in terms of common law, unless the landowner has given specific notice to the contrary.

**Urban area** is all land designated for urban development purposes within a demarcated urban edge, including open space systems.

**Urban edge** is defined as a line drawn around an urban area as a growth boundary, that is, the outer limit of urban areas, with the intention of establishing limits beyond which urban development should not be permitted (this definition is derived from the Provincial Urban Edge Policy and Guidelines: Draft 1, March 2005).

## **7 Location Principles**

### **7.1 Purpose statement**

The purpose of the location principles is to facilitate the appropriate siting or placement of development on the landscape. They take account of the bioregional spatial planning categories, the draft Urban Edge Guidelines and the draft PSDF proposals that are considered to represent 'best practice' in the determination of appropriate location. In essence, therefore, these location considerations set out the circumstances under which a development proposal such as a golf or polo estate would ordinarily be approved/not be approved. Stated differently, the criteria provided in this section set out what might be termed 'a default position' that will enable ecologically sustainable development to be achieved. This does not mean that these criteria may be rigidly or blindly applied, since each application must be evaluated on its own merits. Rather, these considerations are aimed at supporting the decision-maker in the process of applying their mind to the application, taking account of site specific and regional factors.

Bioregional planning has been used as the primary point of departure as this approach has been used consistently throughout the province to inform planning. It must be noted that the definition of the bioregional spatial categories is being substantially reworked as a result of the PSDF and the location considerations provided here reflect the thinking that is emerging through the PSDF process. Since there is agreement on the principles informing the delimitation of spatial planning categories, applicants and their consultants, in consultation with the local and provincial authority should be able to determine the spatial category that applies to a particular site with relative ease. It is most important to note that these guidelines should be read in conjunction with the relevant planning documents, in the form of structure plans, spatial development frameworks (including that at provincial level PSDF) as well as other relevant statutory plans.

## **7.2 Locational Criteria**

### **7.2.1 Urban Zone**

#### Category Description:

An urban zone is all land designated for urban development purposes within a demarcated urban edge, including open space systems.

#### Criteria:

Developments that include golf courses and/or polo fields could be particularly appropriate and even encouraged:

- (a) in the urban zone, where it assists in defining an urban edge (NOTE: In this regard it is recognised that there are divergent views with regard to the nature and delineation of urban edges and that this debate will be resolved in due course through provincial and local planning initiatives);
- (b) where it forms part of the municipal open space system (to be read in conjunction with (ii) overleaf); and
- (c) where residential components are added to existing amenities in urban areas, as a form of densification, provided that the recreational and open space/green lung function of such amenities is not compromised; provided that:
  - i) the site does not fall within an area that has been identified by the relevant Municipality concerned for residential densification;
  - ii) if the site is located within the open space system/network, access to public amenities and open spaces should not be disrupted;

- iii) the site has not been designated as being of sufficient cultural significance by heritage authorities (SAHRA, Heritage Western Cape or the local authority) to warrant it a "nogo" area for development;
- iv) the site does not fall within an area that has been identified as being of conservation significance, within the urban context;
- v) the development will not be located within a buffer zone alongside a river, stream, wetland or any other natural surface water feature as determined by the relevant authority (i.e. municipality and/or Department of Water Affairs & Forestry (DWA&F) and/or the Catchment Management Agency and/or the River Conservation Unit at Cape Nature), and in the absence of such a buffer zone being determined, the following applies:
  - i) 1:20 year floodline: No artificially landscaped areas (e.g. golf course or polo field) within the 1:20 year floodline (in order to protect the river system), as this area is the most prone and vulnerable to disturbance (e.g. erosion) and flooding in heavy (above normal) rain events.

#### EXPLANATORY NOTE

The area most vulnerable to flooding is within the 1:20 year floodline. It is preferable not to locate artificially landscaped areas, which generally require the application of fertilizers, herbicides and pesticides within the 1:20 year floodline.

Whilst it is legally required that no 'hard' development (e.g. residential units, clubhouses, roads etc.) should be placed within the 1:50 year floodline, the 1:100 year floodline is becoming the acceptable norm. The reason is twofold:

- + Firstly, the 1:100 year floodline and 1:50 year floodline often occur within a few metres of each other. Therefore a precautionary approach is warranted from a flood risk perspective.
- + Secondly, the practice of developing structures within the area between the 1:100 and 1:50 year floodline, to raise the floor level above the 1:100 floodline is not favoured from a visual impact and flood risk point of view.

- ii) 1:100 year floodline: No development (i.e. residential units, club houses) below the 1:100 year flood line. No fences or walls are to be constructed across this area.
- vi) the water demand for the development is in accordance with the municipality's water services plan and that there is no risk of placing stress on the municipal water supply;
- vii) where water resources (surface and groundwater) are required to supply the development, that these are not considered as being stressed by Cape Nature (River Conservation Unit or its equivalent) and/or the DWA&F and/or the appropriate Catchment Management Agency;
- viii) the area does not fall within the buffer zone of the coast as defined by relevant legislation, policies or plans, or within 30m of the edge of a cliff located on the coastline, or within 30m of the high water mark, or on primary dunes or on dune systems that are mobile (the most restrictive criteria will apply);

- ix) the development will not result in the permanent removal of or deviation from traditional access used by local communities, particularly where they are dependent on such access for their livelihood (e.g. fishing, commonage for grazing);
- x) the development will not result in existing public access to and along the coastline being disrupted; and
- xi) the development will not result in or contribute to visually obtrusive ribbon development along the coastline or along cliffs and ridges.

#### EXPLANATORY NOTE

The distance of 30m has been applied as this is considered to be the minimum required to allow for safe access for people along the coastline and to minimise the potential for visual impacts. Consideration can be given to increasing or decreasing this zone in accordance with the circumstances of individual cases/applications.

### 7.2.2 Core Areas

Category description:

A core area is an officially proclaimed nature reserves (national, provincial, municipal), biodiversity corridors and critically endangered habitats (determined by Cape Nature and/or SANBI in accordance with the National Spatial Biodiversity Assessment and/or the applicable fine-scale plan) and river corridors.

Criteria:

No development should be located in core areas, as identified through the PSDF's bioregional planning categories. In addition to existing reserves, core areas should also include critically endangered habitats and biodiversity corridors. There must be no loss of critically endangered habitats and the ecological functioning of biodiversity corridors may not be compromised.

### 7.2.3 Buffer and Intensive Agricultural Areas

Category description:

Buffer areas include endangered and vulnerable ecosystem remnants (determined by Cape Nature and/or SANBI in accordance with the National Spatial Biodiversity Assessment and/or the applicable fine-scale plan) least threatened eco-systems remnants, important areas of biodiversity and extensive agricultural areas. The current thinking in the preparation of the PSDF has resulted in the removal of the "Transition Areas" categories as it is argued that the term reflects an inherently unpredictable situation and that Intensive Agriculture should be a Spatial Planning Category on its own, due to its importance in the provincial economy.

Criteria:

Development that includes a golf course or polo field component, may be considered in buffer and intensive agricultural areas under any one or combination of the following circumstances:

- (a) the development will result in achieving long term biodiversity goals, i.e. the development takes place on degraded or disturbed land, which is not deemed as being of

conservation significance and will result in the rehabilitation and ongoing maintenance of a significant land parcel/habitat/natural resource; and/or

EXPLANATORY NOTE

Land that is infested with alien invasive vegetation is not automatically to be considered or defined as being degraded or disturbed, since such areas may contain significant seed banks of indigenous vegetation. This means that they may be of conservation significance, despite the presence of alien invasive species.

- (b) where socio-economic imperatives are such that consideration of development is warranted, that is, where economic development opportunities are extremely limited and a golf course or polo development is the only proven option to achieve socio-economic goals; and/or
- (c) the development will result in securing the viability of a significant agricultural unit or contribute significantly to land reform objectives. provided that:
  - i) the maximum number of units is such that it will not promote secondary development (e.g. service station, shopping centre, retail activities) on or around the site such that a new, unplanned development node is created;
  - ii) the area has not been designated as being of sufficient cultural significance by heritage authorities (SAHRA, Heritage Western Cape or the local authority) to warrant it a "no-go" area for development;
  - iii) the development does not contribute to urban sprawl and/or result in 'leap frogging' existing urban development;
  - iv) the development does not take place on unique high, or medium value agricultural land as defined within the Western Cape context, using the Department of Agriculture's accepted definition of the potential of such land, or on land that is considered suitable for current and future agricultural activities as determined through the Department's Land Care/Area Wide Planning initiatives;
  - v) the area has not been designated as being appropriate for the establishment of emerging farming enterprises by the relevant authorities (e.g. Department of Land Affairs, Department of Agriculture; municipality);
  - vi) the water resources (surface and groundwater) required to supply the development are not designated as being stressed by Cape Nature (River Conservation Unit) and/or the DWA&F and/or the relevant Catchment Management Agency;
  - vii) the site does not fall within the buffer zone of the coast as defined by relevant legislation, policies or plans, or within 30m of the edge of a cliff located on the coastline, or within 30m of the high water mark, or on primary dunes or on dune systems that are mobile;
  - viii) the development will not impact on habitats or ecosystems that are defined as being of critically endangered status by Cape Nature and/or SANBI;

- ix) the development will not disrupt significant biodiversity corridors, particularly coastal corridors as determined by Cape Nature and/or SANBI on the basis of available spatial biodiversity information (e.g. fine scale plans);
- x) the site does not fall within the buffer zone along a river, stream or other natural surface water feature, as determined by the relevant authority/ies (municipality and/or DWA&F and/or Catchment Management Agency and/or River Conservation Unit at Cape Nature), or where the buffer zone has not been determined, within the 1:100 year floodline (refer to Urban Zone Section 7.2.1);
- xi) the development will not be located adjacent to a river that is designated as being pristine, near pristine or stressed by the DWA&F and/or the relevant Catchment Management Agency and/or the River Conservation Unit at Cape Nature;
- xii) the development will not derive its water supply from a river system that has been determined as being pristine or near-pristine or stressed by Cape Nature (River Conservation Unit) and/or the Department of Water Affairs & Forestry and/or the appropriate Catchment Management Agency;
- xiii) the development will not result in the permanent removal or deviation of traditional access or commonages used by local communities and the public (e.g. access to the coast);
- xiv) the development will not result in alteration of the landscape form (e.g. as a result of cut and fill); and
- xv) the development will not result in or contribute to visually obtrusive or 'ribbon' development along the coastline or along cliffs and ridges.

## **8 Application Process Requirements**

### **8.1 Purpose**

The purpose of this section of the policy guidelines is to detail the minimum information requirements that must be submitted by applicants. These requirements must be applied as relevant to the land use and EIA applications. This will bring clarity to the applicant and will assist the decision-maker and stakeholders in assessing the completeness and adequacy of the information provided. The responsibilities of professionals are also dealt with in this section.

### **8.2 Responsibilities of professionals**

- (a) All the professionals that are involved in the application process must be appropriately qualified and registered with the relevant professional organisation should there be one for the profession concerned. In the case of EIA applications the independent EIA consultant must be registered with the appropriate professional organisation (e.g. the Interim Certification Board, Professional Natural Scientist or an equivalent).
- (b) The role of the professional team is to provide the best advice to the applicant, taking account of existing legislation, spatial plans and policies. Whilst compliance with legislation is a non-negotiable, developers are advised to adopt development proposals that show responsiveness to applicable spatial, economic and environmental plans and policies, rather than to motivate to the relevant authorities to change such plans and

policies. Developers are advised that whilst each case has to be evaluated on its merits, ordinarily proposals that are in line with existing spatial plans and policies are more likely to be successful and are less likely to result in appeals. This does not mean that applications that conform to existing spatial plans and/or policies will automatically be approved, since each case must be evaluated on its merits.

- (c) It is inappropriate for any member of the professional team or the developer to lobby officials within the Department to fast-track applications or endeavour to persuade them to approve the application. Such conduct should be placed on record by the official concerned in the case/application file.
- (d) Specialist studies must be undertaken in accordance with any relevant guidelines available from the D:EA&DP and take account of the 'Specialist Studies' information document published by the Department of Environment Affairs & Tourism in 2002 (Integrated Environmental Management Information Series, 4).
- (e) Professionals must ensure conformance with any guidelines or manuals developed by the D:EA&DP for the purposes of defining the terms of reference, scope, methodology and information requirements for studies undertaken in the context of a land use and/or an EIA application.

### **8.3 Presentation of information**

- (a) Reports that are undertaken for the purposes of an EIA or land use application must be written in clear, neutral language and must accurately reflect the findings of the specialists involved in studies relevant to the application.
- (b) The methodology for determining the significance of impacts must be clearly explained and must be consistent for all impacts.
- (c) All impacts, other than those that are clearly irrelevant, must be assessed and evaluated in the main environmental report, on an equal basis with impacts identified by specialists, in a single assessment table.
- (d) If the development is to be phased, a description of the phases and timing thereof must be provided and all impacts must be assessed in terms of the entire development.
- (e) Planning and/or land use applications must focus on how the project or proposal conforms with spatial plans and/or policies, rather than on motivating to have such plans and/or policies altered to accommodate the development.
- (f) Clear maps and photographs must be provided which show at least the following:
  - i) The location of the site relative to its surroundings showing the relationship between the site and local communities, settlements, natural features (e.g. rivers, wetlands, critically endangered habitats, aquifers, springs etc.) cultural and historical features and any other relevant characteristics/features.
  - ii) The location of important features/characteristics on the site itself (e.g. rivers, wetlands, critically endangered habitats, aquifers, springs, erosive soils, settlements, cultural and historical resources etc.).
  - iii) Site layout plans and/or maps that show the relationship between the development proposal (layout/footprint) and the characteristics/features of the site. The inclusion of

- an opportunities and constraints map would be useful together with an explanation as to how this has influenced the site layout.
- iv) Photographs that show the current state of the site and its surroundings. The position of these photographs should be clearly indicated on a map.
  - (g) There are codes, rating systems or assessment tools available to test building designs against sustainable development criteria. Developers are encouraged to test their designs using appropriate rating systems or assessment tools as part of the EIA (e.g. Standards South Africa Energy Efficient Buildings, Part I, Conceptual Basis for Performance), and to include the results in the application.
  - (h) Sustainable development design measures that have been assessed and those that have been adopted or included in the development proposal must be clearly described/listed in the application.

#### **8.4 Consideration of alternatives**

- (a) All reasonable and realistic alternatives must be assessed to an equal level of detail. Realistic and reasonable alternatives means those options that can realistically be implemented by the developer within the ambit of his/her core business. This means that the developer is not expected to consider a range of different land uses. Reasonable and realistic alternatives include, but are not limited, to the following:
  - i) Open form of development versus a fenced development
  - ii) Development with or without a golf course or polo field
  - iii) Development focused on low-key nature based tourism activities versus more intensive use such as golf tourism
  - iv) Alternative layouts - the developer and his/her professional team are responsible for including alternatives which are reasonable and realistic (e.g. site layout plans) in the project proposal, including those put forward by I&APs, so that these can be adequately assessed.
  - v) Alternative densities and development footprints - it must be noted that alternatives that focus solely only on providing different densities of development (e.g. number of housing units) will not be considered as adequate in the context of 'realistic and reasonable' alternatives. Developers are advised to approach density from the perspective of reasonableness, and not to use an overstatement of density to make their preferred option appear favourable.
  - vi) Alternative technologies for services (e.g. water supply, sewerage treatment)
- (b) The developer and his/her professional team must put forward reasonable and realistic alternatives at an early stage in the project, namely scoping, to enable I&APs to comment on these.

#### **8.5 Spatial planning**

- (a) The applicant has to demonstrate that all relevant spatial plans (e.g. PSDF and the SDF relevant to the proposed location of the project) have been consulted and describe whether the proposed development conforms to such planning or not. Where the development does not match existing spatial plans, an explanation of why this is the case must be provided.
- (b) The applicant must demonstrate how the proposed development promotes the general provisions of applicable land use and/or planning legislation and policies.

- (c) Where amendments to approved spatial plans is required, this amendment process should first be concluded before an EIA is undertaken, unless otherwise specified in legislation.

## **8.6 Land use**

- (a) The applicant should undertake a land use impact assessment as part of the EIA. The assessment should address the impact of the land use changes associated with the proposed development (and reasonable alternatives see Section 8.4) on existing land uses on and surrounding the proposed development area. This assessment must:
  - i) if a phased development, take all phases into account;
  - ii) where development is proposed in Buffer and Intensive Agricultural Areas (in accordance with the criteria set out in Section 7.2.2), consider the likelihood of secondary development (e.g. service station, shopping centre, retail activities) occurring on or around the site such that a new, unplanned development node is created, and
  - iii) be informed by case studies of similar existing developments.

## **8.7 Cultural heritage and Visual Impact Assessment**

- (a) Heritage and visual impact assessments, undertaken by independent consultants will be required in accordance with the National Heritage Resources Act (Act 25 of 1999). Accordingly such studies must take all heritage issues into account including historical, cultural, archaeological and paleontological aspects, as relevant.
- (b) The presence of sites, places or landscapes that are of cultural or spiritual significance must be established. This can be achieved through the HIA, but if not addressed by this study, it must be included in the scope of the Social Impact Assessment.
- (c) Generally, the heritage and visual impact assessments are treated as separate specialist studies. Since visual issues are critical in establishing the impact of development on landscapes, it is important for the heritage and visual impact specialists to liaise with one another to ensure that these respective studies complement each other.
- (d) The impact of the development on the 'sense of place' must be included in the heritage and visual impact assessments. It is recognised that it is difficult to assess the changes that will result, but as a minimum the following must be undertaken:
  - i) Use of visual material/graphics to illustrate as clearly as possible, what changes will occur.
  - ii) Testing the current perceptions of 'sense of place' of local communities to determine what is of value to them. This can be achieved through workshops, interviews and surveys. Liaison with the social specialist in this regard is recommended.
- (e) Comprehensive information on the architectural design must be provided, for the purposes of the heritage and visual assessments and for the land use application, which covers the following aspects:
  - i) architectural style, and character of buildings
  - ii) fencing arrangements
  - iii) materials and colours to be used
  - iv) hard and soft landscaping including signage

- v) height of buildings
- vi) lighting (especially also site illumination).

### **8.8 Biodiversity**

- (a) The applicant has to demonstrate that all relevant biodiversity plans prepared in terms of the National Environmental Management: Biodiversity Act 10 of 2004 or under the auspices of CAPE (Cape Action for People and the Environment), Cape Nature or SANBI have been consulted and indicate how the proposed development conforms to such planning.
- (b) The assessment for biodiversity specialist studies must be in accordance with accepted best practice for such studies. In addition to the D:EA&DP guideline for such studies, reference must be made to ecosystem-specific guidelines prepared by the Fynbos Forum or any other appropriate body.
- (c) The specialist concerned must document any limitations placed on him/her such that his/her ability to fulfil these terms of reference are compromised.
- (d) Biodiversity information that is presented must take account of the latest available data from Cape Nature and SANBI.
- (e) If a biodiversity fine scale plan is available for the area in which the project is located, this information must be taken into account.
- (f) Care must be taken when describing the biodiversity of a site, to conclude that it is ecologically degraded and therefore of low conservation value, due to infestation by alien invasive species. In particular, using this as a basis for motivating the development is not appropriate unless these facts have been verified by a botanical expert.
- (g) Consideration must be given to the relationship between the biodiversity on the site, its surroundings and the ecological landscape in which it is located (e.g. fire management, pollination patterns). This means that the role of the site within the context of the ecosystem/s of which it may form a part (i.e. ecological functioning) must be taken into account, when assessing to the potential biodiversity impact of the development.
- (h) The extent to which the development will result in loss and fragmentation of habitat must be provided, using the categories from the Vegetation map of South Africa, Lesotho and Swaziland (2004) and National Spatial Biodiversity Assessment (2004) available from SANBI. This assessment must make use of the most recent available information available from SANBI and/or Cape Nature.
- (i) The biodiversity specialist must specify the management requirements for the construction and operational phases of the project (e.g. fire management). Specific recommendations must be provided. A general recommendation specifying that biodiversity management should be addressed in the Construction and Operational Environmental Management Plan (CEMP and OEMP) is not considered adequate.

### **8.9 Water resources**

- (a) Investigations into the following aspects of water resources as may be required for the development must be undertaken by appropriate specialists:

- i) Groundwater (quantity and quality)
  - ii) Surface water and stormwater (quantity and quality)
  - iii) Aquatic ecology
  - iv) Water conservation measures and technologies
- (b) The water requirements for the development must be fully specified for all phases of the project. It is not adequate to state that water demand will be met by existing lawful registered Water Rights or by the existing municipal water supply system. The volume required for different uses, specifically in respect of irrigation and domestic use must be separately detailed. In addition, the water retention capacity of soils must be determined as this has a bearing on water demand, particularly for irrigation purposes.
- (c) The meeting of water demands from sources other than natural systems (i.e. rivers, streams, wetlands, groundwater) must be considered as a first option.
- (d) The specialist water resources study must determine whether the water demand for the development can be sustained in the long-term, using a 20-year time horizon, with no adverse effects on society, natural systems and agricultural resources. All the applicable authorities involved in the management and allocation of water resources must be consulted. Comments from the relevant authorities (DWA&F and/or Catchment Management Agency and the River Conservation Unit at Cape Nature) in respect of the evaluation of the sustainability of water use must be obtained. The objective is to obtain a perspective of water supply from a local and regional perspective.

**EXPLANATORY NOTE**

This time horizon is considered appropriate in the context of climatic variations and population trends. This timeframe also corresponds with that applied by DWA&F in the National Water Resources Management Strategy (i.e. to 2025) and that applied for the Western Cape Systems Analysis (an investigation into the long-term water requirements for the Province).

- (e) Where the use of river water is being considered, confirmation of the reserve determination (required in terms of the National Water Act 36 of 1998) must be provided. If the reserve has not been established, a study in this regard must be undertaken for proposals where the use of river/stream water is being considered.
- (f) The impacts on the physical and ecological functioning must be fully identified and assessed where development is proposed adjacent to, or, if the intention is to use water from a river or stream or part thereof that is designated as stressed, pristine or near pristine by the DWA&F and/or the Catchment Management Agency and/or River Conservation Unit of Cape Nature.
- (g) Where it is proposed to use river or stream water or other surface water resources (e.g. wetlands), a specialist study on the aquatic ecology is required. The same applies to the use of groundwater, unless there are no groundwater dependent ecosystems (e.g. wetlands, seeps) on the site itself or on the neighbouring properties. This study must determine the following:
- i) identify freshwater ecosystems and buffer areas prior to the establishment of the design layout so that sensitive areas can be accommodated in the design

- ii) determine buffer zones alongside aquatic ecosystems (width according to source of impact, type of ecosystem, maintenance of ecosystem functioning).
- (h) The impact of proposed stormwater control measures on the functioning of natural river, wetlands or streams that may be affected and on groundwater (if the aquifer is considered a strategic resource) must be assessed.
- (i) The specialist study relating to water resources must include details of proposed water conservation measures together with an evaluation of their effectiveness. Alternative water conservation measures should therefore be evaluated in the context of their effectiveness in reducing water demand (i.e. effectiveness as a mitigation measure).
- (j) The specialist study relating to water resources must include details of the monitoring requirements to be fulfilled if the project is approved, both in respect of quantity and quality. The relevant authorities (DWA&F and/or Catchment Management Agency and/or the River Conservation Unit at Cape Nature) must be consulted with respect to the monitoring requirements and their requirements must be incorporated into the monitoring specifications. The specialist study on water resources must provide recommendations on the location and number of monitoring positions/points and the type and frequency of monitoring to be undertaken.
- (k) Where consideration is being given to the use of existing Water Rights, a record of the opinion of the Department of Water Affairs & Forestry and the Department of Agriculture must be provided. The transfer of such Water Rights is subject to approval by the Department of Water Affairs & Forestry.
- (l) Where it is proposed to store runoff in detention ponds for irrigation purposes, the impact of this on the hydrological and ecological functioning of surface and groundwater systems must be assessed, should there be systems present in the area that could be impacted. The advise of a specialist will be required to determine whether such systems are present.
- (m) Where it is proposed to irrigate using water from a Waste Water Treatment facility (either on-site or municipal) the potential impacts on the quality of stormwater runoff and groundwater must be investigated if there are surface water and groundwater resources present in the area. The requirements that must be met are the Western Cape Provincial Guide: "Permissible utilization and disposal of treated sewage effluent", compiled by the Provincial Environmental Health sub Directorate, September 2004 and where:
  - i) Fynbos occurs on or adjacent to the site, these standards must be reviewed by a fynbos ecologist to determine if they are acceptable within such ecosystems. If deemed unacceptable, it will be necessary for treatment options to improve the water quality to be assessed.
  - ii) Aquatic ecosystems (e.g. river, stream, estuary, lagoon, wetland, lake) occur on or adjacent to the site, these standards must be reviewed by an aquatic ecologist to determine if they are acceptable within such ecosystems. If deemed unacceptable, it will be necessary for treatment options to improve the water quality to be assessed.
- (n) If desalination of seawater is to be used as an irrigation source the potential impact of the process of desalination and the resultant discharge of brine waste must be investigated.

- (o) The effect of changed vegetation cover (e.g. fynbos to grass) on groundwater recharge potential must be determined, as vegetation changes can result in significant alterations to the effective recharge to groundwater resources.
- (p) In alluvial ecosystems, the specialist study must include:
  - i) hydrological connectivity and return flows between watercourses and adjacent floodplains/alluvial sediments/alluvial fans;
  - ii) vegetation-groundwater interactions and dependencies, particularly under drought and low-flow conditions;
  - iii) vulnerability of the aquifer system in question to surface contamination caused by nutrient-enriched run-off.

### **8.10 Infrastructure and services**

#### **(a) Traffic**

- i) A Traffic Impact Assessment (TIA), appropriate to the scale of the development must be conducted during the planning phase of the project to the requirements of the local authority, the PGWC (e.g. PGWC Road Access Guidelines 2001) and the Department of Transport's "Manual for Traffic Impact Studies" (R93/635).
- ii) The full development potential of a site needs to be considered and must not be dealt with per phase for phased developments.
- iii) If trip generation rates are significantly different (higher or lower) to the rates given in the table below, motivation for this difference must be given in the TIA. Typical trip generation rates are:
- iv) The availability of public transport for staff must be established and if not available, proposals for the provision of sustainable private transport must be detailed in the TIA.
- v) The TIA should include recommendations on traffic management during the construction phase, particularly in relation to heavy vehicles and on management measures to be implemented for special events.

#### **(b) Stormwater**

- i) Where the floodline has not been determined or is out of date, a floodline study is required where there is a river, stream or wetland on the site, unless a buffer zone has been specified.
- ii) A catchment based Stormwater Management Plan (SMP) that is site specific should be prepared for all proposed developments.
- iii) A comprehensive approach to site planning should be undertaken using the natural drainage system and an integrated system of prevention and control.
- iv) The SMP should include information on the quantity and quality of stormwater runoff, details of stormwater management infrastructure and measures for dealing with abnormal rainfall events and the potential for flooding.

#### **(c) Sewerage**

- i) The proposed conveyance and treatment of sewage generated by the development must be reported on, including the disposal of sewerage (i.e. to municipal or own facility and the use of treated effluent (quantity and quality, if proposed)). In the case of rural developments, where on-site treatment may be required, the impacts thereof must be investigated and liaison with the water resources specialist is required in this regard.

Consideration should be given to on-site treatment options that are based on 'environmentally friendly'/clean/'green' technology.

### **8.11 Social impacts**

- (a) The social impacts of the development on local communities must be assessed by an independent social scientist. In addition, the Social Impact Assessment must be undertaken in accordance with accepted principles and practice such as those published by the Interorganisational Committee on Principles and Guidelines for Social Impact Assessment (2003), or an equivalent.
- (b) The structure, traditions and cultural norms of local communities must be researched, particularly in projects that are proposed in rural towns.
- (c) The traditional public access to beaches and other public resources must be investigated, including access on private land. Measures to retain such access in the long-term must be provided in the assessment process.
- (d) Where relevant, the potential loss of agricultural land must be assessed, taking account of employment loss/gain, land reform objectives and impacts associated with relocation of farm workers.
- (e) The needs of emerging farmers must be considered where development is proposed on agricultural land (zoned or existing).
- (f) Existing forms of economic activity must be established, in particular, activities that are dependent on natural resources must be described (e.g. fishing, forestry).
- (g) Existing community characteristics including patterns of social interaction, interrelationships and the extent of community cohesion/conflicts must be investigated, to obtain an understanding of social capital in local communities. In addition, community aspirations, perceptions and fears with regard to the proposed development must be assessed through interacting with community members and leaders.
- (h) If it is proposed that the development be fully fenced, the impact on the sense of place and on the community must be assessed. This issue is particularly relevant to small coastal and rural towns or where the proposed development is adjacent to a community.
- (i) Funding of/or instituting developmental programmes such as community trusts is considered to form part of the developer's Corporate Social Responsibility or Community Responsibility programme. Consequently, they will not serve as a determining factor in decision-making.
- (j) The consideration of the benefits of community trusts within the scope of a Social or Economic Impact Assessment will not be considered as best practice. On the contrary, it is considered inappropriate to include such Corporate Social Responsibility programmes in the scope of these studies or to use Corporate Social Responsibility as a motivating factor for the development.

### **8.12 Employment and skills development**

- (a) The impacts associated with the potential for the movement of job seekers from outside the local area must be assessed. Mechanisms to address this issue must be identified and

- reported on as part of the Social Impact Assessment, which should include the development of a plan or approach to deal effectively with these impacts, since an increase in the local population, has implications for housing, services and existing social structures.
- (b) The Social Impact Assessment must determine the social benefits linked to job creation and training and skills transfer. The developers proposals in this regard must therefore be described and the assessment undertaken on this basis.
  - (c) In terms of job creation, there needs to be coordination with the economic impact study, particularly in terms of the number and category of positions that will be filled by locals. In this regard the following applies:
    - i) A skills audit must be undertaken in order to determine the availability of skills required for the project. This information must be used to determine the level of local employment that can be achieved in all phases of the project. This will also assist developers to access a database with the skills of the local people.
    - ii) Consideration should be given to applying labour intensive construction practices in such a way as to not negatively influence the construction timeframes for the project. Proposals in this regard also need to be addressed in the Social Impact Assessment.
  - (d) The Social Impact Assessment must include recommendations in respect of the recruitment strategy, to include the following:
    - i) A 'local first' policy to maximise employment opportunities for the local communities, taking account of the local skills base and the existing legislation and policies on professional procurement.
    - ii) The communication strategy to be employed that will clarify that preference will be given to locals.
    - iii) The procedures to be followed by aspiring applicants and employers e.g. procedures for advertising jobs, procedures for applying, procedures for notifying successful or unsuccessful applicants, etc.
  - (e) The Social Impact Assessment must describe the training and skills development proposals associated with the project for the pre-construction, construction and operational phases of a development. This description must include:
    - i) the number of people to be trained;
    - ii) the status of the training (i.e. accredited or not);
    - iii) the qualifications that will be obtained.
  - (f) The Social Impact Assessment must include recommendations regarding support in assisting employees to access employment opportunities after construction is complete (i.e. for temporary employees), through, for example, liaison with local business organisations and community organisations.
  - (g) Procurement requirements (i.e. services that will be 'bought in') must be provided together with an analysis of whether these are available in the local area. The preferred areas or locations from which the developer intends to procure services will be procured must be defined. Specific attention must be paid to the potential to procure goods and services from SMMEs, particularly those owned by HDI's and women.

- (h) Social Monitoring and Evaluation Strategies should be detailed in the Social Impact Assessment to ensure that the social impacts projected during the EIA are adequately addressed with the objective of implementing corrective measures if and when required and to ensure that the mitigation strategies are working as intended.

### **8.13 Economic Impacts**

- (a) A complete economic impact assessment of the proposed development (not related to corporate social investment) will be required, including information on job creation, procurement, multipliers, business models, based on a least a 10-year horizon. An economic model must be based on primary research in the Western Cape and should quantify the direct employment and revenue that will be created by a the various components of a golf development such as the golf course, hotel, residential units, etc.
- (b) The projection of economic benefits to local communities (excluding Corporate Social Responsibility) should be based on local economic research and conditions, not only national economic statistics.
- (c) Where economic benefits to communities are the sole or major motivating factor for the development, all the relevant economic modelling information must be provided in an accessible form.
- (d) The basis on which job creation projections are made must be provided, (e.g. what data has been used, where it was derived, if comparisons with similar developments have been applied).
- (e) Job creation must be determined and reported per component of the development (e.g. golf course, hotel etc.). This must include data on permanent and temporary jobs and on the number of jobs per category (skilled, semi-skilled, unskilled).
- (f) The estimated rand value per service that will be procured from the local area must be provided.
- (g) The business model of the various components must be set out in detail, including the financial and legal responsibilities of the Home-owners Association, the Golf Club, the developer and the relevant authorities.
- (h) The model or approach to be applied to facilitate broad-based black economic empowerment, with supporting information, must be provided in the Economic Impact Assessment. Supporting information must include signed commitments from these BEE partners or participants.
- (i) Every commitment from a social (e.g. skills development and training) or environmental (e.g. rehabilitation, operating part of site as a conservation area) point of view must be included in the economic impact assessment (i.e. the associated costs must be included when testing the financial feasibility of the project).
- (j) The extent to which the development is congruent with the economic development strategy for the area or municipality (i.e. is there synergy or are there opportunity costs), including tourism, must be described and evaluated.
- (k) Where the proposal includes tourism facilities, the links or synergies with existing tourism plans and product offerings must be provided, including proposals to cater for the local

tourism market. The pricing structure applied in the economic/financial feasibility model must reflect realistic provision for domestic tourists.

- (l) All sustainable development design parameters that are stated as having been incorporated into the design of the project must be included in the economic/financial feasibility study for the project.
- (m) Where development in a buffer or transition zone is motivated on the grounds of socioeconomic and/or biodiversity benefits the developer should provide the relevant authority with financial guarantees, related to the expected job creation, skills transfers and environmental management commitments for a five-year period. Such guarantees will be renegotiated after the five-year period. The value of the guarantees will be subject to negotiation by the relevant authority. This requirement is aimed at ensuring that realistic job creation and skills transfer are provided up front.

#### **8.14 Addressing management of construction and operational phases**

- (a) The requirements (i.e. minimum specifications) for the construction phase and the operational phase environmental management plans or measures must be detailed in the EIA, in order to establish whether these will serve as adequate mitigation mechanisms or not. These management plans must address each of the applicable impacts described in the EIA.
- (b) The management plans that are referred to above (item 8.14(a)) should encompass best practices in terms of factors relevant to the development which may include but is not limited to:
  - i) water conservation and irrigation practices;
  - ii) use of herbicides, fertilisers and pesticides;
  - iii) ecosystem processes such as fire management, maintenance of on-site habitats and biodiversity and maintenance of links to biodiversity corridors;
  - iv) waste management and disposal including measures to minimise and recycle waste;
  - v) community interaction, including handling of complaints;
  - vi) health, safety and environmental awareness raising and training;
  - vii) protection of heritage and cultural resources;
  - viii) maintenance of public access;
  - ix) environmental and social performance monitoring.

### **9 Design Aspects**

#### **9.1 Purpose statement**

The purpose of this section of the policy guidelines is to detail design considerations for golf course and polo field developments, with a view to promoting innovative and best practice approaches, reducing the ecological footprint of a development and preventing inefficient extensions of service networks. Developers are therefore encouraged to explore new technologies and design approaches that are founded on sustainable development principles, sometimes referred to as 'environmentally friendly technologies' or 'green building or green technologies'. Some of the items in this section are considered to be 'minimum requirements' as indicated by the use of the term 'must'.

#### **9.2 Visual considerations**

- (a) The scale and design of the development should not be disruptive to the sense of place of an area or neighbourhood.
- (b) The visual impact of development in buffer and intensive agricultural areas in particular, will require careful attention. Care should be taken to ensure that the visual impact from all public places (e.g. roads, beaches) is assessed and mitigated.
- (c) Walling, security features and entrances require particular attention. As a rule visually permeable fencing and walling should be used and entrances should include soft landscaping to prevent them from being hard and visually intrusive features (i.e. entrances should not stand out against their surroundings).

### **9.3 Socio-economic considerations**

- (a) An open form of development should be considered as a first option, that is, before that of a completely fenced development or 'gated community' is considered. The development must be designed such that it blends into neighbouring areas, if the entire development is to be fenced. Intrusive fencing that causes the development to appear obviously separate from its surroundings should be avoided.
- (b) With a view to promoting the DFA principles and addressing the challenge of integration, consideration should be given to accommodating a wide range of income groups within a development and the applicant must report on how this factor has been taken into consideration in the proposal. Security must be considered.
- (c) Fencing must not result in disruption of existing traditional access.
- (d) With a view to promoting the DFA principles and addressing the challenge of integration, consideration should be given to accommodating a wide range of income groups within a development and the applicant must report on how this factor has been taken into consideration in the proposal.

### **9.4 Biodiversity considerations**

- (a) The use of fencing must take account of biodiversity corridors. Accordingly, fencing may not be placed in a manner that disrupts the functioning of such corridors. Neither the movement of small nor large animals must be negatively impacted.
- (b) Indigenous grasses (e.g. *Paspalum vaginatum* or *Cynodon dactylon* or any other species that has been tested and found to be suitable) must be used for fairways and greens to minimise the need for the application of herbicides, pesticides and fertilisers (and gardens, if appropriate) and to reduce water demand (i.e. irrigation requirements), unless otherwise agreed with the relevant municipality and nature conservation authority. Use of kikuyu must be avoided.
- (c) The use of indigenous water-wise species, for landscaping of estate gardens, including the gardens at individual residences must be specified.

### **9.5 Stormwater and water use considerations**

- (a) Consideration should be given to the creation of artificial wetlands for the treatment of stormwater run-off, particularly from areas where fertilisers, herbicides and pesticides are used.

- (b) Measures such as swales and cutoff drains must be provided for to divert poor quality stormwater runoff to effluent treatment facilities or to artificial wetlands, if created on the site. The design of swales and cutoff drains should provide for runoff of acceptable quality to enter the natural drainage system so as to minimise changes to the natural hydrological regime of the system.
- (c) Stormwater infiltration must be promoted through minimising hard paved areas and the use of porous paving surfaces, where paving is required.
- (d) Stormwater runoff from roofs must be directed into gardens and/or into rainwater tanks, rather than into stormwater drains.
- (e) The provision of rainwater tanks for residential properties must be specified, unless otherwise directed by the relevant municipality.
- (f) The feasibility of grey water recycling must be investigated both from an engineering and environmental impact perspective (the quality of grey water and its impact on local ecology must be considered). Grey water recycling must be implemented if this assessment proves its feasibility.
- (g) Consideration should be given to implementing waste-water treatment systems for domestic effluent, that are closed systems and that are designated as being 'environmentally friendly' in design.
- (h) Wastewater from a municipal Waste Water Treatment Works (WWTW) must be used for irrigation purposes, if available, provided that it can be shown that there will be no adverse effects on groundwater or surface water resources (Refer to Section 8.9).

## **9.6 "Green" or sustainable building considerations**

- (a) In respect of the design of buildings, including club houses and individual residences, consideration should be given to the following:
  - i) positioning of buildings in the context of the features of the site and the landscape
  - ii) energy efficient design of the building to minimise the requirements for artificial heating and cooling systems;
  - iii) use of natural materials, preferably from renewable sources;
  - iv) use of locally available materials rather than imported goods;
  - v) use of energy efficient lighting, including natural lighting;
  - vi) use of water conservation measures in all bathroom/ablution facilities and other facilities;
  - vii) use of renewable energy sources (e.g. solar) for heating and lighting purposes;
  - viii) facilities to minimise waste generation, including the promotion of recycling. Designing with water conservation in mind. The principles shown in this diagram can be applied to homes, club houses and hotels. Rainwater and grey water can be directed for use in irrigation of landscaped areas as well as golf courses and polo fields.

## 10 Public Participation Requirements

### 10.1 Purpose

The purpose of this section is to provide guidance on the public participation requirements for proposed golf course and polo field developments. This section should be read with internal guideline on Public Participation that has been developed by the D:EA&DP.

What is Public Participation?

A mechanism by which the public is not only heard before the decision, but has an opportunity to influence the decision from the beginning to the end of the decision-making process. (Creighton 1993 - cited in DEAT 2003)

A process leading to a joint effort by stakeholders, technical specialists, the authorities and the proponent who work together to produce better decisions than if they acted independently. (Greyling 1996 - cited in DEAT 2003)

### 10.2 Advertising

- (a) When information about the project is placed in the public domain, the only advertising that should be undertaken is that required in terms of relevant planning and/or environmental legislation.
- (b) For projects in areas designated as Critically Endangered or Endangered by the Spatial Biodiversity Assessment, notices must also be placed in metropolitan/regional newspapers and the fact noted in the advertisement.
- (c) For projects where access may be affected or where there is potential for communities or individuals to be relocated, this fact must be included in the above-mentioned advertisement.
- (d) Advertising in respect of the land use and/or EIA application must take account of the three official language groups of the Province and be published in accordance with the languages spoken by local communities in the area.
- (e) It is considered bad practice for developers to undertake commercial advertising (i.e. advertising that refers to the sale of stands or that in any way suggests that the development will occur) until all approvals have been obtained. In the case of land that is designated as agricultural land in terms of Subdivision of Agricultural Land Act 70 of 1970, it is illegal to undertake such advertising.
- (f) Commercial advertising (i.e. promotion of the development to potential buyers) may not include reference to private beaches or any other public resource as being 'private' or for the exclusive use of the development.
- (g) Any party that is aware of inappropriate or illegal advertising is encouraged to inform the relevant authority (i.e. the authority that has jurisdiction over the legislation that renders such advertising illegal).

#### EXPLANATORY NOTE

Advertising in relation to agricultural land is dealt with in the Subdivision of Agricultural Land Act 70 of 1970. Hence, the Department of Agriculture is the relevant authority. In the event of this issue being covered in the PSDF and/or the provincial law reform project, the D:EA&DP will be the applicable authority.

### 10.3 Petitions

- (a) Any petitions that are commenced by any interested and affected party, whether for or against the development, must be accompanied by a sworn statement, signed in front of a Commissioner of Oaths, that there has been no coercion involved in initiating the petition and that signatories understood the content of what they have underwritten.
- (b) Applicants and respondents should be aware that petitions will not form the sole basis of a decision in favour or against an application.

### 10.4 Standard of Public Participation Process

- (a) The public participation process should not be based on minimum standards or requirements. These developments are complex and to this end the process should be based on an appropriate level of participation. In this regard, reference should be made to the document entitled 'Stakeholder Engagement', published in 2002 by the Department of Environment Affairs & Tourism (Integrated Environmental Management Information Series 3) or an equivalent. By way of guidance, involvement is considered a more appropriate and acceptable level of participation than that of consultation. Involvement is based on working directly and consistently with stakeholders to ensure that their concerns are addressed, throughout the process. Consultation is based on receiving feedback from stakeholders and keeping them informed. The Guidelines for Local Government: Public Participation produced by the Department of Local Government (Western Cape) must also be consulted.
- (b) An independent facilitator should undertake the Public Participation Process in circumstances where the project is located in a sensitive area from an environmental and social point of view and has the potential to be controversial, rather than the EIA consultant. A high-level of specialist facilitation expertise is considered necessary for these projects due to their complexity and the potential for conflicts to arise.
- (c) It is considered bad practice for the developer to undertake any public participation activities, such as for example publishing newsletters and the like. The implementation of the public participation process must be left entirely in the hands of the independent facilitator or public participation practitioner including the preparation of newsletters, information sheets, posters, background information documents, advertisements and any other documentation required for the process.
- (d) The public participation process must make provision for different languages of I&APs. In addition, appropriate communication tools must also be employed. In communities where literacy is an issue, a means to obtain or record verbal submissions must be implemented.
- (e) The person responsible for the public participation process must liaise with the social scientist/specialist on the team. This is so that the public participation process is structured to enable local and traditional knowledge to be accessed.

- (f) The description of the public participation process must include an explanation of how the input from I&APs influenced the project and/or the land use or EIA application. If the public participation process did not change the project in any way or influence the EIA process an explanation as to why this is the case must be given.
- (g) The independent EIA consultant must ensure that information is presented in an accessible manner, using clear and simple language.
- (h) Consideration should be given to making financial provision for I&APs to obtain access to professional expertise, particularly for complex projects. A fund that is independently administered could be set up to facilitate this. Such a fund would have to be set up on a 'no strings attached' basis, should the developer decide to contribute in this manner. Funding could also be obtained via a development levy (this mechanism is currently not in place although it is being considered by Province).

### **10.5 Addressing expectations**

- (a) The making of commitments that are conditional on the community support for the project will be considered as coercive behaviour on the part of the developer. This is different to, for example, stating that if approval is obtained, an employment policy of 'local first' will be adopted or that contributions to IDP programmes will be made.
- (b) Any statements regarding local employment potential are to form part of the economic impact assessment and must be described using neutral terminology.
- (c) Any party that is aware of conduct that can be considered as coercion, are encouraged to advise the decision-maker of this and to lodge a formal complaint in this regard. The D:EA&DP must apprise itself of the situation and undertake an investigation into such complaints.

## **11 Responsibilities Of The Decision-making Authorities**

### **11.1 Purpose**

This section covers the responsibilities of the relevant authority, in this case the D:EA&DP and must be read with Section 2 and 3 of this document, since these sections provide information relevant to decision-making.

### **11.2 Responsibilities**

- (a) All of the requirements set out in Sections 7, 8, 9 and 10 of these policy guidelines must be taken into account in the decision-making process. Hence, each application must be evaluated in terms of the requirements set out in Sections 7, 8, 9 and 10, taking account of the manner in which the application has responded to these requirements. This means that consideration must be given to aspects where the application conforms to the policy guidelines as well as the explanation provided by the applicant in respect of variations to these policy guidelines. The manner in which these factors have been taken into account must be clearly detailed in the document in which the decision is recorded.
- (b) The D:EA&DP must indicate all relevant policies, guidelines, manuals or any other information that gives guidance and clarity on the requirements for applications and associated studies, to the applicant.

- (c) The decision-maker must ensure that the opinion of relevant authorities has been obtained by the applicant and/or the consultant during the application process, both in the case of planning and EIA applications.
- (d) In formulating the conditions to be attached to a land use approval or EIA authorisation, the D:EA&DP is responsible for consulting authorities that have relevant expertise or that can add value to the decision. Such authorities include, but are not limited to, the Department of Agriculture, Cape Nature and DWA&F, DEA&T and DME. In addition, the relevant municipality must also be consulted, particularly with a view to confirming whether the application conforms to the SDF and the IDP.
- (e) Should the development proposal contain obvious fatal flaws based on these policy guidelines and/or relevant legislation, plans and policies, the responsible senior manager within the decision-making organisation must indicate to the developer as early as possible in the application process that the proposed development is unlikely to be approved.
- (f) The Department will decide, based on the nature and complexity of these developments and the receiving environment, the level of the EIA process to be followed.
- (g) The decision-maker must ensure that the progress of the application is accurately tracked, particularly when documentation is with the Department (i.e. the developer is awaiting a response). This means that the Department must ensure that it is in a position to provide information on the status of any application, in the event of a query being received from the applicant or the project consultant (planning or EIA consultant).
- (h) The decision-maker must ensure that documentation in relation to an application is dealt with within a reasonable timeframe.
- (i) The sustainable development design specifications (such as those detailed in Section 9 of these policy guidelines) or proposals that are put forward by the applicant for the development must be included, by the decision-maker, in the Conditions of Approval attached to the land use and/or environmental decision, in the event of the project being approved/authorised.
- (j) The decision-maker should consider commissioning an independent review for projects where significant environmental, economic or social impacts are reported, particularly where such applications require the weighing up of potential economic benefits against potential disadvantages from a natural resource, social, cultural or biodiversity point of view. This applies to both planning submissions and/or Environmental Impact Reports. The purpose of the independent review is to provide the decision-maker with certainty regarding the accuracy of predicted impacts. Such reviews must be undertaken by competent and experienced professionals.

## **12 Management And Implementation**

### **12.1 Purpose statement**

The purpose of this part of the policy guidelines is to highlight issues relevant to the implementation of the development and is relevant to both golf course and polo field developments. Monitoring, evaluation, enforcement and reporting requirements are covered in

this section. Monitoring and reporting requirements can be expected to be included in the approval/authorisation conditions for developments that have been subject to a planning, land use and/or EIA application. This section of the policy guidelines is also relevant to existing developments that have not been subject to an application process in that such monitoring can be considered to be in line with sound management practices. In such cases adherence to these guidelines would be voluntary, unless a directive under section 28(4) of NEMA is issued, requiring compliance with one or more of these requirements.

## **12.2 Implementation considerations**

- (a) Consideration should be given into developing a formal agreement between the developer and stakeholders, if approval is granted, in respect of relevant environmental, social and economic commitments that are made by the developer in his/her application. This could take the form of a social compact or an Environmental Management Cooperation Agreement (EMCA) as provided for in section 35 of NEMA.
- (b) The above-mentioned agreement should include performance targets in respect of environmental, social and economic impacts and benefits. These targets should be taken into account in environmental and social auditing activities.
- (c) In the event of the developer deciding to implement a Corporate Social Investment programme, the relevant local authority (including Ward Councils) must be consulted and such efforts must be aligned to the IDP.
- (d) The requirements set out in the CEMP and OEMP (Section 8.14) must be subject to ongoing monitoring, reporting and auditing. Consideration should be given to implementing a management system such as an Environmental Management System (EMS), which can be a valuable tool for managing such issues in a comprehensive and coordinated manner.
- (e) The implementation of internationally- recognised best practice environmental management standards that have been developed for golf courses is recommended. These could readily be incorporated into the EMS referred to in item 12.2(d).
- (f) Where a development includes tourism facilities, consideration should be given to adopting the principles of Responsible Tourism as reflected in the Charter that was developed in this regard at the World Summit on Sustainable Development (or an equivalent) and participating in Responsible Tourism initiatives.
- (g) The procurement of goods and services should take cognisance of the Fair Trade principles or an equivalent.

## **12.3 Monitoring and evaluation**

### **12.3.1 Responsibilities of the developer**

- (a) The developer is responsible for ensuring that monitoring systems are put in place in accordance with the requirements of this section.

### **12.3.2 Elements to be monitored**

- (a) Every aspect of the project that is covered in the application (planning, land use and/or EIA) and the resulting approvals must be monitored. Monitoring must be structured to:

- i) establish the actual effects (negative and positive impacts) of the project against those predicted in the land use and/or EIA documentation;
  - ii) determine the effectiveness of mitigation measures;
  - iii) take account of targets set out in the planning, land use, and/or EIA application documentation (e.g. for energy saving, for job creation).
- (b) All of the monitoring requirements set out in specialist studies undertaken for the EIA must be undertaken, whether these are specified in the Record of Decision or not.
- (c) Water resources
- i) Volume of water used (per month) for irrigation, hospitality facilities and for domestic purposes.
  - ii) Water quality in stormwater detention ponds and stormwater outlets where these discharge into the natural environment.
  - iii) Groundwater quality where treated sewage effluent is used for irrigation purposes and where the aquifer is considered sensitive or of strategic importance.
  - iv) Monitoring must be implemented to detect changes, resulting from groundwater abstraction, to aquifer-dependent ecosystems (e.g. wetlands, seeps).
- (d) Biodiversity
- i) Indicator species (select species that are most sensitive to disturbances resulting from the proposed project, (e.g. lack of fire/burning, nitrogen deposition, invasion by alien grasses, pollution of ground water, fragmentation of habitats, etc), both on and adjacent to the site.
  - ii) Change in the extent of original indigenous habitats on the site.
- (e) Job Creation and skills transfer
- i) Number of jobs during the construction phase (permanent, temporary), per category (skilled, unskilled, technical, administrative, managerial etc.).
  - ii) Number of new jobs created and existing jobs sustained during the construction phase.
  - iii) Number of jobs per category for the operational stage (permanent and temporary).
  - iv) Number of jobs per group (HDI, women etc.) per category for the operational stage.
  - v) Number of staff trained per group (HDI, women etc.) and the type of training.
  - vi) Number of staff promoted per group (HDI, women etc.).
  - vii) Number of staff trained, skills development programme undertaken and comparison with targets.
  - viii) Value and nature of services procured from local businesses, particularly from SMMEs that are owned by historically disadvantaged individuals, including details of where these businesses are located and their ownership profile.

#### **12.4 Enforcement responsibilities**

- (a) The decision-maker is responsible for ensuring that the developer complies fully with the conditions attached to the land use approval and/or environmental authorisation. This can be achieved via participation in an Environmental Monitoring or Liaison Committee if one is in place. Alternatively, site inspections or audits will be required.
- (b) The decision-maker could outsource compliance auditing of the development, if there is no capacity to deal with this in-house. In such cases, the audit must be conducted by

appropriately qualified environmental professionals, who would be responsible for ensuring that the necessary specialist skills are included in the audit team.

### **12.5 Auditing and Reporting**

- (a) The developer must undertake an audit on how the development is performing in terms of the requirements of the Record of Decision at least every 6 months, unless otherwise agreed with the regulatory authority and/or I&APs.
- (b) This audit (item 12.7(a)) should either be undertaken by an independent environmental professional or subject to an independent audit (e.g. through certification of the EMS) at least once a year, if undertaken as part of the developer's internal audit process.
- (c) The developer must prepare a report, on an annual basis, on how the development is performing in terms of the requirements of the Record of Decision and all the commitments that were made by the developer (e.g. job creation, skills development, water conservation, environmental rehabilitation). This report should be submitted to the relevant authority.
- (d) This report (referred to in item 12.7(c)) should either be prepared by an independent environmental professional, or subject to an independent verification by an environmental auditor and an appropriate verification statement must be included in the report, if prepared by the developer.

The report referred to in item 12.7(c) must be made available to I&APs upon request.

The developer must prepare a report on an annual basis on all of the items for which they have made a commitment in the context of Section 8 and 9 of these guidelines, which is to be submitted to the relevant authority. This report is the basis on which the developer will be able to draw-down or reduce the financial commitment made in terms of the financial guarantee (refer to Section 8.13(m)).

## **13 Conclusions**

The fact that these policy guidelines have been developed within the context of a changing legislative and policy framework has been pointed out in this document. It will therefore be necessary to revisit these policy guidelines when any relevant policy (including the PSDF) and legislation changes to ensure that they remain current and that they continue to serve as a tool to support the implementation of such policy and legislation. These policy guidelines should, therefore, respond to changing circumstances and as such are a 'living document.'

In the event of there being lack of definition or of items or terms being ambiguous in these policy guidelines, reference will be made to the applicable legislation to obtain clarity.

The intention is that these guidelines be applied or used on the basis of good faith, meaning that developers, consultants and decision-makers will work within spirit and intent of these policy guidelines.

## **14 References**

### **Articles and publications**

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