



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

GUIDELINE FOR ENVIRONMENTAL ASSESSMENT PRACTITIONERS

Procedures for obtaining City of Cape Town
comment on Environmental Impact Assessment and
Mining and Prospecting Applications

JULY 2015

GUIDELINE FOR ENVIRONMENTAL ASSESSMENT PRACTITIONERS (EAPs)

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1. BACKGROUND TO AND PURPOSE OF THIS DOCUMENT

1.1 Background

In terms of the Environmental Impact Assessment (EIA) Regulations promulgated in terms of the National Environmental Management Act (Act No. 107 of 1998) (NEMA), the City of Cape Town, as an 'organ of state', is automatically a registered interested and affected party (I&AP) and entitled to comment on environmental assessment processes of interest to it.

Obtaining comment from the City of Cape Town ('the City') on environmental assessment applications can, however, be a complex process and if not done correctly may contribute to delays in Environmental Assessment (EA) completion. Having to deal with many applications coming in for comment, each with their own deadlines, also poses its challenges to City officials.

Requests for comment are frequently sent to the wrong district office or to the City Manager, who then forwards them on to the Environmental Compliance Unit in the Environmental Resource Management (ERM) Department. The request for comment then needs to be redirected to the appropriate official in the Environmental & Heritage Management Branch¹. These unnecessary delays often result in the correct official only receiving the request for comment a few days before or even after the deadline.

1.2 Purpose

This guideline has been compiled to inform Environmental Assessment Practitioners (EAPs) of the correct and most effective and efficient approach to obtaining timely City of Cape Town comment on Environmental Assessment (EA) documentation.

1.3 Structure

Section 2 sets out the key principles relevant to commenting processes in the City of Cape Town.

Section 3 sets out the commenting requirements.

2. KEY INFORMATION AND PRINCIPLES THAT RELATE TO CITY OF CAPE TOWN OFFICIAL'S DELEGATIONS TO COMMENT

It is important for all EAPs to understand the following:

2.1 The City is an authority (or 'organ of state') and is entitled to comment on all applications for environmental authorisation

¹ See Addendum 1 for a summarised outline of the various branches in the Environmental Resource Management Department.

As an authority and 'organ of state', the City must be consulted about any project, process or programme that may affect it². The NEMA EIA Regulations specifically state that all organs of state's names must be recorded in the register of interested and affected parties that must be consulted with during the EIA process.

The City therefore does not have to formally register as an interested & affected party (I&AP) in order to participate in commenting processes. Thus, when EAPs are appointed to undertake any Environmental Assessment (EA) process on land within the City boundary or on land which may have some impact on or be of interest to the City of Cape Town, then the EAPs must automatically include the City of Cape Town on the register of I&APs.

2.2 Delegated authority is needed to submit City comment

The City is a legal entity (juristic person) and can only speak with one voice. Any comment that purports to represent the City's view must be made in terms of an appropriate delegation.

City officials of the Environmental & Heritage (E&HM) Management Branch in the eight planning and administrative districts of the City administer the coordination of the comments in accordance with the delegations. (Details of these officials and their areas of jurisdiction are given in Addendum 1).

2.3 Submission of an integrated City comment is essential

An integrated City comment is essential due to the diversity of issues that need to be addressed by decision makers. An integrated City comment is one that includes comment from several different departments (line functions) within the City whose operations may effect, or be affected by, the proposed activity. Input from relevant departments will depend on the type, scale and location of the proposed activity, but it is the assigned E&HM Branch district official's responsibility to integrate the comment from these departments. The official assigned to compiling the integrated comment will identify which departments should make comment on the NEMA or MPRDA application, with the assistance of the EAP when necessary.

2.4 Comments coordinated and submitted from the ERMD offices

Important: Comments should be submitted from the appropriate Environment & Heritage Management Branch (E&HM) district office and be signed off by the relevant Head or principal staff member (E&HM Branch) or Manager. EAPs must therefore always initially contact the Head of the district in which the project is to take place (see the map in Addendum 1). Posting or e-mailing documents to an Executive Director or the City Manager may result in unnecessary delays and is not recommended.

The Environmental Compliance Unit, (based at the ERM Department head office in Wale Street in the city) will coordinate comment in exceptional cases, such as applications for environmental authorisation for major projects of a city- wide and strategic nature. The Heads (E&HM) will guide the EAP as to when the Environmental Compliance Unit needs to coordinate comment.

² NEMA S24 (4) (a) (v) states that 'all organs of state in all spheres of government that may have jurisdiction over any aspect of the activity,' (should be provided) 'with a reasonable opportunity to participate in those information and participation procedures'.

2.5 Comments submitted by City officials must be in line with City policy

City officials will provide comments that are in line with City policy, by-laws and spatial frameworks and plans.

2.6 Participation of City officials in and input to public meetings and/or site visits

Officials from the relevant E&HM Branch district office should be invited to public meetings and/or site visits that would assist them to understand the nature of the proposed project and the issues of concern. Participation in such meetings is at the discretion of the official. In accordance with the requirements of the EIA Regulations, input made by the official during the course of these meetings must be noted and taken into consideration during the course of the assessment, but official City comment is only made once the District Environment & Heritage office is requested to compile an integrated comment on a written Basic Assessment (BA) or Scoping/EIA report.

2.7 Early input of City officials

The general principle that applies is that early identification and consultation of the relevant Head and assigned district official in the E&HM Branch of ERMD is appropriate. Such consultation may take place before the initiation of any formal EIA process. This approach may assist with timeous identification of possible problem areas or issues and also enable the official to identify, and if necessary, alert other departments which may need to submit comment. As a minimum, the Head and assigned official should be alerted as soon as possible to the fact that an application will be submitted for comment, and given the anticipated timeframes for the public and authority involvement process.

It should be noted that no City official can be expected to give any ruling on the triggering or not of the NEMA Regulations or any indication of the likely outcome of any NEMA process. It is the responsibility of the EAP to contact the competent authority (Provincial DEA&DP in most cases) to confirm whether any activities listed in the NEMA Regulations will take place and thus trigger the need for an environmental assessment.

2.8 Commenting periods

The NEMA EIA regulations allow for a 30 day comment period on draft Basic Assessment or draft Scoping/EIA reports. If the City does not receive the documents on the day of notification, a request for an extension to the comment period may be made.

2.9 The role and function of Councillors, Sub-Councils, Portfolio Committees and the Mayoral Committee

Comments made by Councillors or Sub-Councils do not represent the mandated City view, unless authorised to do so by Council. Councillors, Sub-Councils and committee members are however at liberty to make comments in their personal capacity. These comments should be treated in the same way as any other comment made by a member of the public.

In exceptional cases, the Executive Director: EESP may elect to refer any matter to a political structure for a decision (section 61 of the Municipal Systems Act). This would be appropriate in cases where the proposed activity would have strategic, long term

implications for the City of Cape Town area, which justify political consideration of the issues.

2.10 Comment by City departments on City applications

City departments may comment on City applications. It is the responsibility of the EAP appointed by a City service unit to submit relevant documentation to the District Environment & Heritage office for comment. The various departments' comments will be integrated by the assigned district official. (See also sections 2.1 and 2.3). An internal procedure will be applied if comments are found to reflect conflicting priorities between different service units.

Further detail on commenting processes is given in the following section.

3. PROCESS TO OBTAIN COMMENT FROM CITY OFFICIALS ON NEMA APPLICATIONS FOR ENVIRONMENTAL AUTHORISATION

Preparation Stage

a) Contact Environmental & Heritage Management Head

The appropriate official to coordinate comment on an application will be identified by the Environmental & Heritage Management Head of the district concerned. Therefore, the first task of the EAP is to contact the relevant Head, alert them to the fact that an application is coming in for comment and request identification of the district official who will be responsible for compiling the integrated comment. The request to the Head may be made by phone when possible (staff are not always in their offices), but must always be backed up with an email request to facilitate tracking and further correspondence.

b) Contact assigned district official

The official should be alerted to the nature and location of the forthcoming application for comment and given an indication of the anticipated project timing and milestones, particularly those relating to commenting deadlines. At this preparatory stage, the official may be able to alert the EAP as to sources of information (City officials and documents/maps, policies or plans) that will be of particular relevance to the application. The official will, in most cases, be able to assist the EAP in identifying the appropriate people to consult. The official may also be able to identify particular 'red flag' issues that may need to be taken into account in the preparation of the application and any background information documents. The official may also give the EAP an indication of the number and format of reports that will be needed to enable timeous integrated City comment.

c) Consult line departments if necessary

It is necessary for the EAP or applicant to contact City line/service departments to obtain information about service and infrastructure capacity as this information needs to be included in Basic Assessment and Scoping/EIA applications. Points to note are given below:

- Provide the line departments with the necessary information. The project proponent/applicant and the EAP must ensure they are well prepared and informed prior to consulting City line departments and have identified all feasible project alternatives and the issues that may be associated with them. The

applicant must ensure that the City is provided with whatever technical information is needed to assess the potential implications for City services and infrastructure. The EAP and applicant must obtain and provide as much relevant project data as possible. A clear map of the proposed site and region must be supplied to the line department officials, together with the erf number and Surveyor General's code. Where appropriate, photographs (surface and/or aerial) should also be supplied.

- Status of line department comment. It should be noted that any input by City officials at this stage does NOT constitute approval or support of the project, and should be regarded as preliminary – as further information may come to light during the course of the EA process that may change the project description or alternatives and thus the possible impact on City services and infrastructure. If the project also has to go through a Land Use Planning Act application, the officials may have to assess the project again at a more detailed level, and it is only at this stage that the merits of the application will become clear.
- What if there are conflicting opinions between the departments?
The E&HM official who is responsible for compiling the integrated comment, will manage the process of addressing situations where there are conflicting comments. An internal procedure exists for the purpose of ensuring a single City position.
- What kind of comments can be expected from land use management officials when an application also has to go through a LUPA process?
It is important to recognise that land use management staff will not be in a position to comment on the merits of a proposal if they have to process a LUPA application. Planners may indicate whether a proposal is consistent or inconsistent with approved spatial policy and guidelines. In the scoping or early stages of an environmental assessment planners may also raise issues to be addressed by the EAP during the EIA process and provide technical and factual input regarding the planning policies for the area in question.

EAPs should ensure that the EA process plan identifies opportunities for integrating the EA, Municipal Planning By-Law (MPBL) and LUPA processes, as much as this is possible. If this is done, roles and responsibilities in terms of what types of comment can be submitted when, can be determined and agreed on early in the process.

The E&HM official will, when necessary, consult with Land Use Management staff about the implications of the proposed project. It is also essential that Land Use Management officials are timeously informed about the findings and recommendations of the draft Basic or Scoping/EI Assessment as the recommendations may have implications for land use or urban form. The competent authority frequently includes EA recommendations in conditions associated with the Environmental Authorisation which the City of Cape Town then has to adhere to. If the conditions are contrary to land use or spatial planning policy, this can present problems. Thus the E&HM official and the EAP must ensure that any recommendations made in the EIA are consistent with City spatial policy and feasible in terms of implementation. As a minimum, Land Use Management officials should be able to comment on draft EIAs in this respect – even if they cannot give an opinion on the overall acceptability of the application until it goes through the formal MPBL or LUPA process.

d) *Consult assigned official about the number of reports required.*

The EAP must contact the Environmental & Heritage Management district official and ask how many paper copies of the report are required. Unless the district official indicates differently, one bound paper copy must be supplied. All diagrams, maps or figures that are meant to be in colour, must be printed in colour and at a suitable scale. A photocopied black and white version of a colour map/diagram is not acceptable and may contribute to delays in the officials commenting on the documents.

One rewritable CD or DVD must also be supplied with all reports and maps thereon. In this way, information can be shared electronically with City staff using Sharepoint. If the EAPs have a website, an electronic copy of the report must be placed on the website and the link address must be given to the district official. When placing the document onto the website, the EAPs must try, as far as possible, to divide the document into manageable portions to facilitate easy downloading. If the reports are emailed to the district official, the EAPs must bear in mind that the City's network will not accept emails of 2MB or greater without a delay. They will only be sent to the official at off peak hours overnight. The provision of a website address does not replace the requirement for the EAP to produce the minimum hard copies and CD/DVD.

Commenting stage

e) *Submit documents for comment to the assigned district Environmental & Heritage Management official*

The EAP must submit the copies of the BA or Scoping/EIA report directly to the assigned district official for comment. Do not post or e-mail documents to the City Manager or an Executive Director since this will result in a delay to the application.

The EAP must request acknowledgement of receipt or confirm telephonically with the official that the report has been received. As for all reports, it is necessary to ensure that it is absolutely clear as to:

- The location, nature and stage of the application: A one page executive summary must be given, briefly stating the nature of the project, and giving a plan/map of its location with the Erf number(s) and SG 21 code(s) clearly stated
- Deadlines for comment
- How and to whom comment must be submitted
- The address and contact details (telephone and email) of the EAP
- In addition, the EAP must identify which City line departments – and the specific individuals involved – have been consulted in any way about the project. This information will assist the official to ensure that these officials are given the opportunity to comment on the BA or Scoping/EIA report.

f) *If requested, arrange and/or participate in supplementary information exchange initiatives*

The EAP may be requested (by the Environmental & Heritage Management district official) to participate in information sharing meetings about the project. They may also be requested to arrange a site visit for key officials. These meetings will help to ensure an informed and timeous comment. Each project will differ in its requirements.

Importance of submitting all required information timeously: As the district official has to obtain comment from a variety of departments, and also possibly arrange

meetings with these departments to discuss the application, it is essential that the BA or Scoping/EIA reports for City comment reach the district official as soon as possible. If there is any missing information or the documents reach the official a few days after the start of the public/authority commenting period, the City may need to request an extension to enable collection and collation of the relevant comment.

The start of the comment period will, in this situation, be regarded as the day on which the missing information/documents are received by the relevant district official in the City.

Once all comments from City officials have been received, the E&HM district official will compile an integrated comment. The original separate comments from the individual City line departments may be attached to the integrated comment.

The Environmental & Heritage Management district official will endeavour to obtain comments from all relevant departments, but there are occasions when comment is not obtained for a variety of reasons. The official will make it clear in the integrated comment given to the EAP which departments have and have not commented. If a critical line department has not commented, the district official may decide to escalate the request for comment to Director level or higher.

g) *Acknowledge receipt of the comments*

It is essential that the EAP acknowledges receipt of the City's comments. Acknowledgement of receipt may be in the form of an email, fax or letter for the attention of the relevant official indicated as the contact person on the City's comment. This applies to comments submitted in terms of both NEMA and the MPRDA. It is also essential that the EAP includes the City's comment in the reports submitted to the competent authority for decision making. Failure to include these comments may have significant implications for the City and may result in the EAP's unsatisfactory performance being reported to the Supply Chain Management Department.

Important note: If the EAP has been appointed by the City to undertake an EA on its behalf (i.e. the City is the applicant), the above procedures still apply. In addition to notifying the Head of the relevant district where the project is to take place, the EAP must also send the following information to the Environmental Compliance Unit: i.e. Janet.Bodenstein@capetown.gov.za and copy to Keith.Wiseman@capetown.gov.za: Name and contact details of the EAP, project work programme with key milestones, name and contact details of the City project manager, reference number issued by the competent authority and the name of the competent authority case officer. In addition, a map showing the location of the project and giving the erf number(s) and SG code(s) of the property(ies) where the project is to take place must be supplied. The Environmental Compliance Unit will enter this information onto a City EIA tracker and will periodically check progress on the project.

4. PROCEDURES FOR OBTAINING CITY COMMENT ON MINING OR PROSPECTING APPLICATIONS IN TERMS OF THE MINERALS & PETROLEUM RESOURCES DEVELOPMENT ACT

Decision-making on mining in terms of the Mineral and Petroleum Resources Development Act (Act No.28 of 2002) (MPRDA) is the responsibility of the Department of Mineral Resources. It is however also a legislative requirement that the prospecting

or mining company comply with LUPA. Activities associated with prospecting or mining may also require authorisation in terms of the NEMA EIA Regulations.

The principles and procedures outlined in section 2.1 to 2.8 are also applicable to City comment on prospecting or mining applications.

The Department of Mineral Resources has been requested by the City to send MPRDA mining application documents requiring comment within the City of Cape Town area to the **ERM Department Environmental Compliance Unit** (see contact details in Addendum 1). The Environmental Compliance Unit is thus the contact point for the Department of Mineral Resources.

When the document arrives in the Environmental Compliance Unit, the type of mining application is noted, its location is entered onto a GIS map and then the Environmental Compliance Unit official arranges collection of the documents by the relevant E&HM district official, who takes over the process of compiling an integrated comment. The process for compilation of an integrated comment is then the same as for a NEMA application. In the case of documents submitted for comment in terms of the MPRDA, the assigned district official will compile an integrated City comment and submit this via the appropriate delegated authority to the EAP.

5. CONCLUSION

This EAP guideline will ensure a more efficient and effective process for obtaining comment on NEMA and MPRDA applications. Adherence to the guidelines will enable City staff and EAPs to work together and minimise unnecessary delays in the overall EIA process.

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ADDENDUM 1

Contact details for the Environmental Resource Management (ERM) Department

General contact details for the ERM Department are as follows:

Environmental Resource Management Department
P O Box 16548
Vlaeberg, 8018

Web: www.capetown.gov.za/environment

Tel: 021 487 2200 (Director)

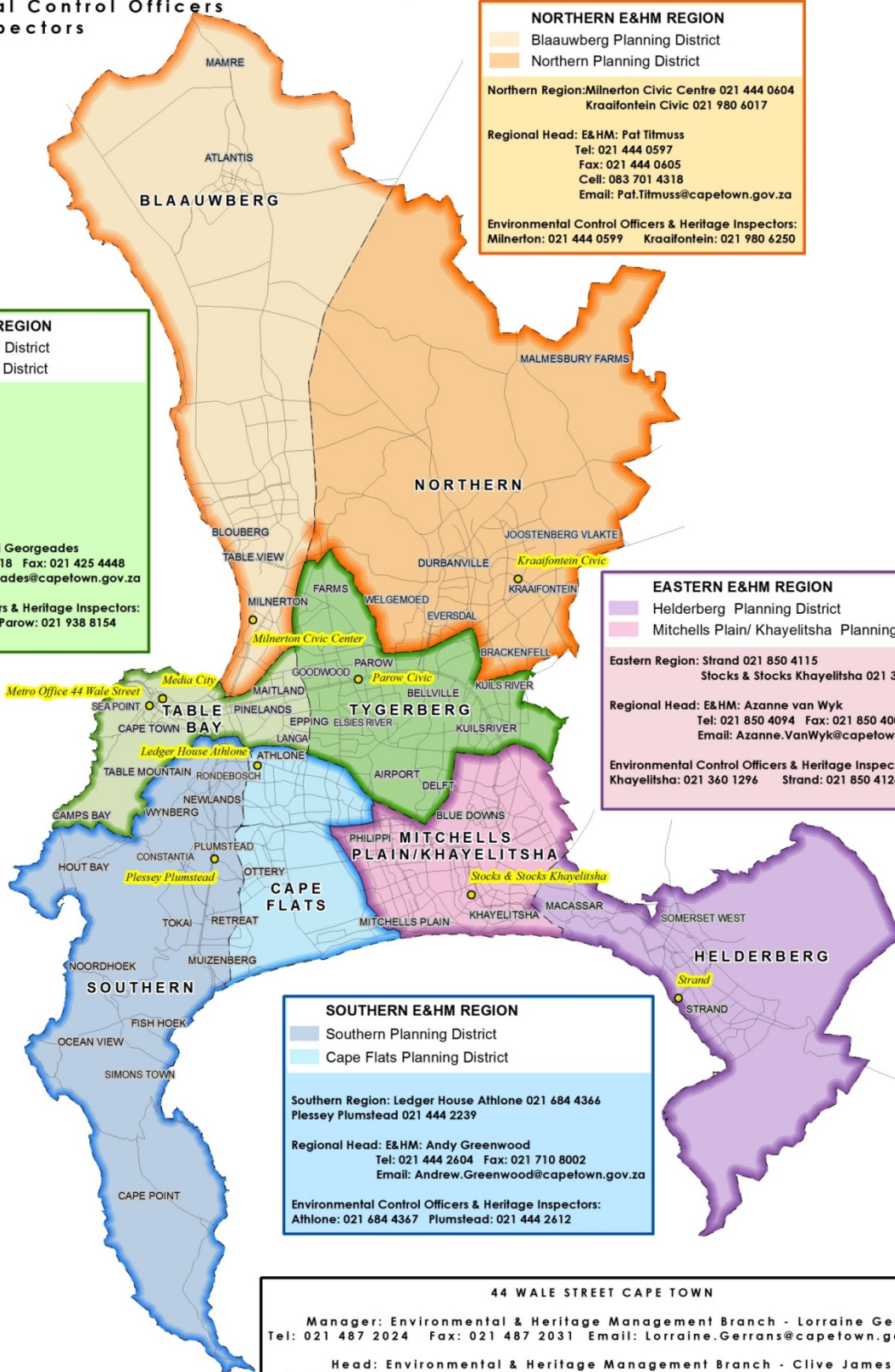
Fax: 021 487 2578

E-mail: enviro@capetown.gov.za

*Please note that this address should **not** be used for district-specific applications. Please refer to the map of the districts and correct contact details for each of the district Environmental & Heritage Management Heads, as well as the contact details for the Environmental Compliance Unit.*

The physical addresses of the District E&HM offices are given after the map.

- Environmental impact evaluation, advice, protection and rehabilitation projects
- Cultural & Natural resource advice, protection and restoration projects
- Monitoring and control of outdoor advertising
- Environmental Control Officers
- Heritage Inspectors



NORTHERN E&HM REGION

Blaauwberg Planning District
Northern Planning District

Northern Region: Milnerton Civic Centre 021 444 0604
Kraaifontein Civic: 021 980 6017

Regional Head: E&HM: Pat Tilmuss
Tel: 021 444 0597
Fax: 021 444 0605
Cell: 083 701 4318
Email: Pat.Tilmuss@capetown.gov.za

Environmental Control Officers & Heritage Inspectors:
Milnerton: 021 444 0599 Kraaifontein: 021 980 6250

CENTRAL E&HM REGION

Tygerberg Planning District
Table Bay Planning District

Table Bay District:
Media City Building 2nd floor
Tel: 021 400 6519
Fax: 021 425 4448

Parow District Office:
Parow Civic Centre
Tel: 021 444 8897
Fax: 086 576 2606

Regional Head: E&HM: Dimitri Georgeades
Tel: 021 400 6518 Fax: 021 425 4448
Dimitri.Georgeades@capetown.gov.za

Environmental Control Officers & Heritage Inspectors:
Cape Town: 021 400 6611 Parow: 021 938 8154

EASTERN E&HM REGION

Helderberg Planning District
Mitchells Plain/ Khayelitsha Planning District

Eastern Region: Strand 021 850 4115
Stocks & Stocks Khayelitsha 021 360 1124

Regional Head: E&HM: Azanne van Wyk
Tel: 021 850 4094 Fax: 021 850 4004
Email: Azanne.VanWyk@capetown.gov.za

Environmental Control Officers & Heritage Inspectors:
Khayelitsha: 021 360 1296 Strand: 021 850 4124

SOUTHERN E&HM REGION

Southern Planning District
Cape Flats Planning District

Southern Region: Ledger House Athlone 021 684 4366
Plessey Plumstead 021 444 2239

Regional Head: E&HM: Andy Greenwood
Tel: 021 444 2604 Fax: 021 710 8002
Email: Andrew.Greenwood@capetown.gov.za

Environmental Control Officers & Heritage Inspectors:
Athlone: 021 684 4367 Plumstead: 021 444 2612

44 WALE STREET CAPE TOWN

Manager: Environmental & Heritage Management Branch - Lorraine Gerrans
Tel: 021 487 2024 Fax: 021 487 2031 Email: Lorraine.Gerrans@capetown.gov.za

Head: Environmental & Heritage Management Branch - Clive James
Tel: 021 487 2314 Fax: 021 487 2031 Email: Clive.James@capetown.gov.za

Physical addresses of the District Environmental & Heritage Offices

1. Northern E&HM Region

Blaauwberg Planning District
Milnerton Civic Centre
87 Pienaar Road
Milnerton

Northern Planning District
Kraaifontein Civic Centre
Brighton Road
Kraaifontein

2. Central E&HM Region

Table Bay Planning District
Media City (2nd floor)
Cnr of Adderley Street and Hertzog Boulevard
Cape Town

Parow Planning District
Parow Civic Centre
Cnr of Tallent and Voortrekker Roads
Parow

3. Southern E&HM Region

Southern Planning District
Plessey Building
Cnr of Victoria and Main Roads
Plumstead

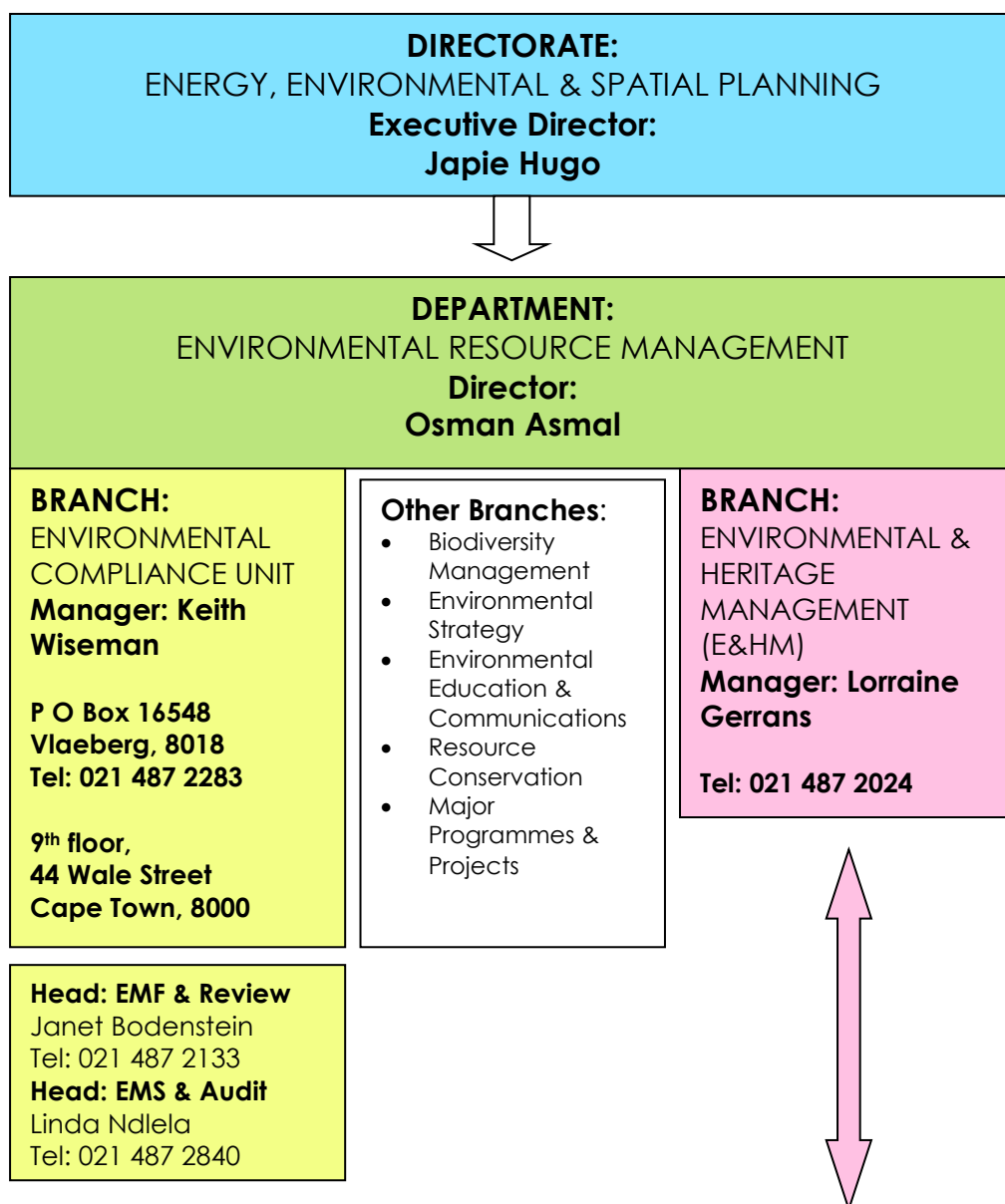
Cape Flats Planning District
Ledger House
Aden Avenue
Athlone

4. Eastern E&HM Region

Helderberg Planning District
Strand Municipal Building
Cnr of Main and Fagan Streets
Strand

Mitchells Plain/Khayelitsha Planning District
Stocks & Stocks Building (E Block)
Ntlazane Road
Khayelitsha

ADDENDUM 1 continued: Simplified Environmental Resource Management Department structure for purposes of informing Environmental Assessment Practitioners on procedures for obtaining City comment on NEMA and MPRDA applications.



DISTRICT HEADS of Environmental & Heritage Management Branch (see map)			
Central Region	Southern Region	Eastern Region	Northern Region
Mr Dimitri Georgeades Dimitri.Georgeades@capetown.gov.za Tel: 021 400 6518 <u>Table Bay</u> P O Box 4529, Cape Town, 8000 <u>Tygerberg</u> Private Bag X11 Parow, 7499	Mr Andy Greenwood Andrew.Greenwood@capetown.gov.za Tel: 021 444 2604 <u>Southern</u> Private Bag X5, Plumstead, 7800	Ms Azanne van Wyk Azanne.vanWyk@capetown.gov.za Tel: 021 850 4094 <u>Helderberg</u> PO Box 3 Strand, 7129 <u>Khayelitsha / Mitchells Plain</u> Stocks and Stocks Private Bag X93 Bellville, 7575	Ms Pat Titmuss Pat.Titmuss@capetown.gov.za Tel: 021 444 0597 <u>Northern and Blaauwberg Districts</u> P O Box 35 Milnerton, 7435