



## REPORT TO SUBCOUNCIL 8

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1. **ITEM NUMBER :** *To be inserted by secretariat*  
2. **SUBJECT** 08SUB07/11/2023SM

### **MANAGEMENT OF THE LOURENS RIVER PROTECTED NATURAL ENVIRONMENT**

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#### **3. PURPOSE**

Subcouncil 8 is being requested to note and support the recommendations regarding the management of the Lourens River Protected Natural Environment.

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#### **4. FOR DECISION BY**

Subcouncil 8 for information and support.

Delegation - Part 25.2 (1): To monitor the implementation of Council's budget, service delivery business implementation plans, strategic objectives, policies and programmes within the sub-council jurisdictional area.

Delegation - Part 25.11 (1) To establish and determine the terms of reference of *ad hoc* task-teams and working groups, and to appoint the members and chairpersons thereof.  
*Council 20 June 2023 SPC 03/06/23*

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#### **5. EXECUTIVE SUMMARY**

This report reflects the background and interventions required regarding the management of the Lourens River Protected Natural Environment (PNE).

The integrity of the water quality of the river is compromised and has deteriorated due to unlawful activities at certain portions of the PNE.

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Making progress possible. Together.

The following recommendations are required to address these issues:

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## 6. RECOMMENDATIONS

It is recommended that:

Subcouncil 8 **NOTE** and **SUPPORT** the proposed approach to manage the Lourens River Protected Natural Environment, as follows:

- i) That an **AD-HOC WORKING GROUP BE ESTABLISHED** as per the System of Delegations, June 2023, Part 25 (11) (1) to coordinate inputs and make recommendations to the Subcouncil regarding the impact on the environment and remedial measures to address activities causing pollution and degradation at certain sections of the Lourens River Protected National Environment;
  - ii) That the multi-disciplinary working group **DRAFT A COMMUNICATION PLAN** for the process to manage the Lourens River Protected National Environment;
  - iii) That the working group **PROVIDE ADVICE** to the City of Cape Town regarding remedial measures to ensure compliance with the governing legislative framework to include clean-up operations, waste management and the conservation and protection of the Lourens River Protected National Environment;
  - iv) That the **PROPOSALS FROM THE AFFECTED LINE DEPARTMENTS BE INVESTIGATED** by the working group and recommendations be submitted to the Subcouncil for consideration;
  - v) That the **LOURENS RIVER PROTECTED NATURAL ENVIRONMENT MANAGEMENT OPTIONS REPORT AND RECOMMENDATIONS BE CONSIDERED** in conjunction with the proposals from the affected line departments;
  - vi) That the Subcouncil **ACKNOWLEDGE AND MANDATE** the working group to ensure that the relevant policies and bylaws of the City are adhered to and implemented in this matter;
  - vii) That the working group **PROVIDES A BI-MONTHLY REPORT** to the Subcouncil until the matters have been resolved.
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## 7. DISCUSSION/ CONTENTS

### Background:

On 18 November 2021, following the local government elections, the new term of office of the City of Cape Town Council commenced with its business within re-determined municipal boundaries. The number of Subcouncils were reduced from 24 to 21. Ward 84 (Somerset West) of the then Subcouncil 24 was incorporated within Subcouncil 8.

The matters receiving attention received by Subcouncil 8 included Motion No. 30, Item 24SUB 25/11/2018, received from the then Chairperson of Subcouncil 24, Alderman Pringle. In terms of Section 17 of the Rules of Order for Subcouncil Meetings of the City of Cape Town, a motion may be brought before the Subcouncil for a decision. Where the motion has financial or legal implications, no final resolution may be taken on it before comments by the officials concerned have been obtained.

This motion requested that the City of Cape Town provide a report to Subcouncil 24 on the options regarding fencing off portions of the public open space along the Lourens River between Andries Pretorius & Main Roads, Somerset West.

The fencing off of portions of the public open space along the Lourens River between Andries Pretorius & Main Roads, Somerset West, was not supported and as such a further motion was submitted, Motion 32, 24SUB 18/11/2019: motion received from Alderman Stuart Pringle that the City provides an update regarding the proposals to better secure the area along the Lourens River by fencing off and install gates along portions of the river at Main Road and Andries Pretorius Streets, Somerset West.

It was reported at the meeting of the then Subcouncil 24 on 23 January 2020 that funding had to be obtained and it was proposed that funding be sourced through MURP. Possible funding was reallocated to relief programmes in 2020, due to the hard lockdown, as a result of COVID-19 pandemic.

It was reported at the Subcouncil 24 meeting held on 23 July 2020 and subsequent meetings that the installation of the fencing would take place at a cost of R35 506. 50 for implementation by the project managers from MURP and Recreation and Parks (funding).

At the Subcouncil 24 Activity Day held on 28 April 2021, it was agreed to fence off Bizweni and Orange Street and also consider to fence off the opposite side of Stormhaven on the side of Pick 'n Pay. A decision was reached that Andries Pretorius would not be fenced it will be parked and monitored.

At the Subcouncil 24 Activity Day held on 28 July 2021, the Chairperson stated that the all the fencing projects have been installed and thanked the officials for finding each other in getting the work done and requested that the item be removed from the Matters Receiving Attention (MRA) register. This decision was noted at the then Subcouncil 24 meeting held on 23 September 2021.

Problem description:

It is worth noting that, during the hard lockdown which was lifted in April 2022, the trend of invasion of public open spaces, road reserves and sidewalks increased as displaced people set up tents and structures across the City of Cape Town. As such, displaced people have settled along portions at the edge of the Lourens River between the railway line and the Riverside Centre, Somerset West.

Legislation and court rulings prevented the eviction and removal of illegal structures by the City's anti-land invasion units in the absence of alternative accommodation during the National State of Disaster.

The neighbouring communities from the adjacent formal housing have ever since encountered, laid complaints and open cases at the South African Police Service (SAPS) about anti-social and/ or aggressive or intimidating behavior, public indecency, robbery and damage to property, including the degradation of the natural environment, hacking and river pollution.

The subject area has become unsightly and the permanent stench of waste, urine and faeces hanging in the air. The waste build up, unhygienic conditions and open fires present health risks to the community and those living in the public open space.

The above-mentioned conditions trigger activities pronounced in a number of legislation, policies and bylaws listed under Section 7 of this report.

Matters for consideration:

The entire Lourens River, from its headwaters to the sea, was declared a Protected Natural Environment on 24 April 1997.

The purposes of the declaration of areas as protected areas are-

- (a) to protect ecologically viable areas representative of South Africa's biological diversity and its natural landscapes and seascapes in a system of protected areas;*
- (b) to preserve the ecological integrity of those areas;*
- (c) to conserve biodiversity in those areas;*
- (d) to protect areas representative of all ecosystems, habitats and species naturally occurring in South Africa;*
- (e) to protect South Africa's threatened or rare species;*
- (f) to protect an area which is vulnerable or ecologically sensitive;*
- (g) to assist in ensuring the sustained supply of environmental goods and services;*
- (h) to provide for the sustainable use of natural and biological resources;*
- (i) to create or augment destinations for nature-based tourism;*
- (j) to manage the interrelationship between natural environmental biodiversity, human settlement and economic development;*
- (k) generally, to contribute to human, social, cultural, spiritual and economic development or*

*(1) to rehabilitate and restore degraded ecosystems and promote the recovery of endangered and vulnerable species.*

This pertains the area that falls 45 metres on either side of the centre line of the Lourens River.

The current land and water use of the subject area are in contravention of the *National Environmental Management Act: Protected Areas Act, 2003 (Act 57 of 2003), Section 86 (1)*

*(c) ... regulating-*

*(i) biodiversity management and conservation in protected areas;*

*(ii) the use of biological resources in protected areas;*

*(iii) access to protected areas;*

*(iv) tourism in protected areas where tourism is allowed;*

*(v) activities that may be carried out in terms of section 50;*

*(vi) the use of land and water in protected areas;*

*(vii) community-based natural resource utilisation; or*

*(viii) consultation activities which are required in terms of this Act and*

*(d) prohibiting or restricting-*

*(i) activities that have an adverse effect in protected areas;*

*(ii) the use of biological resources in protected areas;*

The integrity of the water quality of the river is compromised and has deteriorated due to unlawful activities at certain portions of the PNE. This and a number of legislation are being transgressed given the situation described above. The non-compliance also affects the rights and interests of the neighbouring communities along the Lourens River PNE. This is in direct conflict with the provisions of Section 24 of the Constitution: Everyone has the right—

*(a) to an environment that is not harmful to their health or wellbeing; 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.*

The following areas for intervention is urgently required:

1. Manage and maintain the Lourens River PNE (including removal of litter, silt and alien vegetation and invasive species, pollution control) to improve the water quality;
2. Manage displaced people along portions of the Lourens River PNE.

The interventions can be given effect through proposals as follows:

### Proposal 1:

Secure the area along the Lourens River by fencing off and installing gates along portions of the river at Main Road and Andries Pretorius Street, Somerset West:

It should be noted that the proposal may include activities listed in the Environmental Impact Assessment (EIA) Regulations in terms of the National Environmental Management Act (NEMA) No 107 of 1998, as amended and effective from 8 December 2014, which may not commence without Environmental Authorisation being granted by the competent authority.

Therefore, the proposal cannot be considered until such time as Environmental Authorisation has been granted by the competent authority, i.e. the Department of Environmental Affairs and Development Planning (DEA&DP) or written confirmation with regards to the applicability of the aforementioned EIA Regulations have been received.

It should be noted that the proposal is situated on a property / properties within the Lourens River Protected Natural Environment as declared in terms of Section 16(1) of the Environmental Conservation Act, No 73 of 1989.

In terms of the applicable directives, an application for written approval for carrying out an activity / activities on erven that are referred to in the PN 161/1997 Regulations, must be submitted to the Branch Environmental & Heritage Management for consideration.

Since the proposal falls within a regulated area in close proximity to a watercourse and may therefore require authorisation from the National Department of Water and Sanitation (DWS), it is recommended that the DWS be contacted with regards to the perceived process to be followed (if any).

### Action:

Submit the application to the relevant authorities to secure the PNE at certain portions of the Lourens River.

### Proposal 2:

Prevention of pollution or degradation of the environment and conserve the biological diversity of the Lourens River PNE as per the Management Plan, as envisaged in *National Environmental Management Act: Protected Areas Act, 2003 (Act 57 of 2003), Section 41*.

An integrated approach including engineering, environmental and socio-economic elements should be considered to enhance sustainability through risk mitigation, planning and identification of alternatives for resources management.

The Cape Town Metropolitan Spatial Development Framework (MSDF) and the Helderberg District Plan provide policy guidance for decision making in relation to the development objectives and principles for the District, for the

management of open spaces and the Lourens River PNE in particular. Such decisions should be aligned to the provision of the Cape Town Municipal Planning By-Law, 2015 (MPBL, 2015):

Section 4.5.11. Open Space:

*2.5.11.1. Prevent deterioration of the natural environment and green open spaces and maximize green infrastructure potential in open spaces.*

...

- b. Protect natural vegetation and encourage landscaping and appropriate plantings in developments.*
- c. Avoid privatization of open space and prevent encroachment of development into the Biodiversity Network or open spaces.*
- d. Prevent pollution of natural water sources and features through control measures where stormwater or sewage overflow discharge points intersect with watercourses or natural features.*
- h. Protect, maintain and enhance green network linkages (corridors) and encourage these in association with new developments.*

*2.5.11.2. Ensure positive interface with parks and open spaces:*

...

- a. Protect and maintain the green network linkages.*
- d. Protect public pedestrian routes and public access to natural assets, including the coast, mountains, rivers and other public open space.*
- e. Protect aesthetics of a space and visual connection to natural features, and integrity of ridgelines.*

*Section 4.5.12. Lourens River Corridor and Protected Natural Environment:*

*4.5.12.1. Conserve the important Lourens River catchment system (i.e. Lourens River and PNE).*

- a. Protect and maintain appropriate river and wetland buffer and prevent inappropriate land uses in this area.*
- b. Consent to be obtained for all activities within the PNE. Detailed assessments required for any development related to the operation requirements of the protected area and urban development. Development should be sensitively considered taking flood protection measures within the area into consideration.*
- c. Optimize opportunities for an enhanced river corridor for ecological and social amenity value.*
- d. Retain and where possible reclaim public access along the river course.*

Action:

The Lourens River Protected Natural Environment management options report and recommendations (June 2022) should be considered in conjunction with the proposals from the affected line departments herein. The report which was commissioned by the Environmental Management Department have identified several issues, risks and opportunities as a basis for determining management priorities and actions. Factors taken into account include water quantity, water quality, and habitat, as well as management-related aspects.

Whilst the processes and approach to implementation of the recommendations are being considered, river and area cleaning should continue to take place.

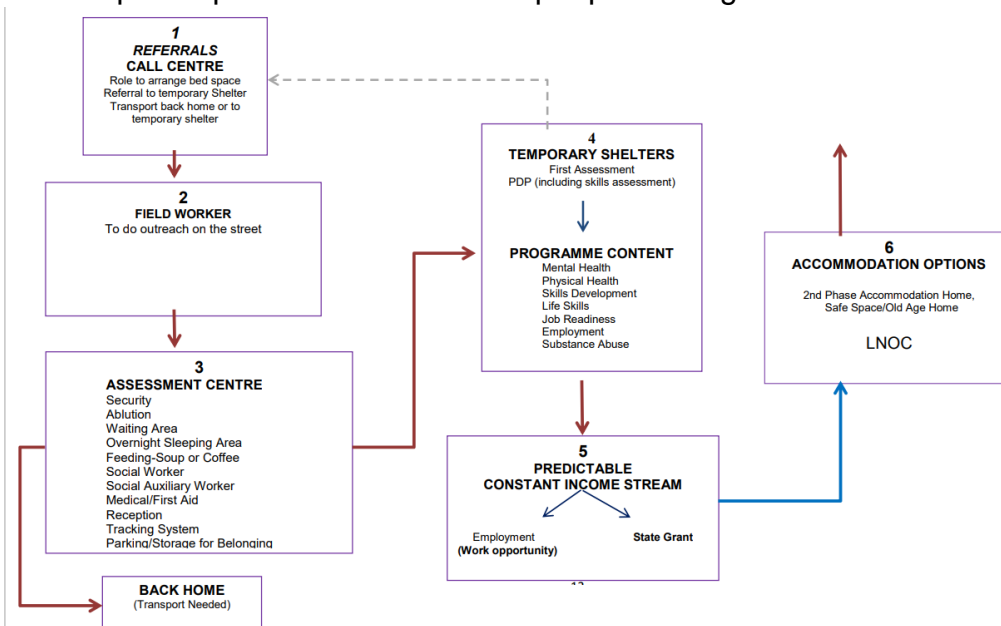
Proposal 3:

Implement the provisions of the bylaw relating to Streets, Public Places and the Prevention of Noise Nuisances, 2007, as amended, as well as the Street People Policy, 2013, as follows:

1. *The Department of Social Development and Early Childhood Development (ECD) staff conduct a social assessment of a person’s circumstances and offer social assistance/ shelter.*
2. *If refused, a joint operation with law enforcement takes place in which shelter is again offered.*
3. *If again refused, a compliance notice is issued, indicating the steps, deadline, and consequences of non-compliance.*
4. *If not complied with, a written notice may be issued to appear in court. Offers of social assistance and shelter remain available at all times.*
5. *If the person fails to appear, the court may issue a warrant of arrest.*
6. *It will then be up to the court and prosecutors to determine the way forward which could be the Courts ordering rehabilitation, rather than opting for punitive measures such as fines or imprisonment.*

The Department of Social Development and ECD maintains a record of social assessments and interviews with homeless individuals to help reintegrate them back into society and with their families, which assistance are often declined. This include reasons for homelessness, mental and physical health, living conditions and sources of income.

The response process flow for street people management is as follows:



In this case, it was reported that, from the clients that are at the subject property, only two accepted social assistance. Two clients were relocated to

the Eastern Cape. The remainder of the group were offered social assistance but refused to be institutionalized or reintegrated.

The below statistics for engagements at the Lourens River PNE and surrounding areas, behind the houses on Andries Pretorius Street, underneath the bridge on Main Road (Gaatjies), behind Pick and Pay and at Wrong Turn.

Month 2023	Nr of screening	Nr of Follow ups	Referral for shelter placement	Nr of males clients	Nr of Female clients
June	1	19	19	26	5
July	5	11	2	11	4
August	0	9	0	4	1
Sept	4	5	0	3	2
Oct	3	10	0	5	6

Action:

The Reintegration Unit of the Department will have to continuously conduct, in conjunction with the Displaced People’s Unit in the Safety and Security Directorate, regular operations and clean-ups and monitor when the clients have returned or additional people have moved into the area.

Conclusive Remarks and Next Steps:

This report aims to achieve and provide comprehensive background and recommendations regarding the management of the Lourens River PNE.

It is proposed herein that a working group be established, comprising representatives from the relevant line departments and facilitated by the Subcouncil.

Departments to be represented:

- Environmental Management
- Coastal Management
- Environmental & Heritage Management
- Health Inspectorate
- Catchment, Stormwater & River Management Bulk Services
- District Planning and Mechanism, Urban Planning and Design
- Road Infrastructure Management
- Transport
- Water Waste Management
- Solid Waste Collection
- Solid Waste Management
- Recreation and Parks
- Displaced People’s Unit
- Metro Police
- Law Enforcement
- Social Development and ECD
- Informal Settlements
- Housing Development

Public Participation Unit  
Ward Councillor

The Lourens River Conservation Society and the newly established Lourens River Catchment Management Forum and/ or other Civil Society organisations should co-op representatives to serve on the working group.

It is envisaged that the working group provide advice to the City of Cape Town regarding remedial measures to ensure compliance with the governing legislative framework to include clean-up operations, waste management and the conservation and protection of the Lourens River Protected National Environment. The terms of reference of the working group will include the mandate to ensure that the relevant policies and bylaws of the City are adhered to and implemented in this matter.

The proposals listed herein are in line with the Integrated Development Plan (IDP) objectives:

- PUBLIC SPACE, ENVIRONMENT AND AMENITIES

OBJ 9: Healthy and sustainable environment:

9.1 Environmental and biodiversity management programme

The City is committed to protecting, restoring and managing its natural areas to ensure their long-term sustainability. The municipality recognises that its green infrastructure is important to Cape Town's resilience to climate change, and for reducing the impact of shock events such as floods and heatwaves.

9.2 City health programme

The City is committed to improve the health of the urban environment for residents to live, work and interact in. The City also plays an important role in ensuring access to quality primary healthcare services.

OBJ 10: Clean and healthy waterways and beaches:

10.1 Healthy urban waterways programme

Waterways that are safe, healthy and functional are essential in making Cape Town a water-sensitive city. The City will invest in cleaning up rivers and vleis and combating sources of pollution.

10.2 Coastal programme

The City will restore and improve priority coastal infrastructure and ecological processes, with a focus on improving resilience to climate change impacts.

- A CAPABLE AND COLLABORATIVE CITY GOVERNMENT:

16.7 Community engagement and partnership programme

16.7.C. Local needs and service delivery coordination initiative  
Requirements enshrined in the Constitution (1996) Chapter 2  
Bill of Rights affecting surrounding communities.

### 7.1. Constitutional and Policy Implications

<b>Legislative Framework</b>
Constitution of the Republic of South Africa, 1996
PN 161/1997: Declaration of the Lourens River Protected Natural Environment and the issuing of directions in terms of the Environment Conservation Act (Act 73 of 1989) - Annexure B Section 2 (a)
National Environmental Management Act, 1998 (Act 107 of 1998)
Environment Conservation Act, 1989 (Act 73 of 1989)
National Water Act, 1998 (Act No. 36 of 1998)
System of Delegations (City of Cape Town) 20 June 2023 item SPC03/06/23
Cape Town Municipal Planning By-Law, 2015
Environmental Health Act, No 61 of 2003 as amended
Environmental Health By-law published in Provincial Gazette Extraordinary 6041 Dated 30 June 2003
National Environmental Management: Waste Act, 2008 (Act 59 of 2008)
National Environmental Management Act: Protected Areas Act, 2003 (Act 57 of 2003)
Helderberg District Plan, 2023
Bylaw relating to Streets, Public Places and the Prevention of Noise Nuisances, 2007, as amended
Street People Policy (Policy number 12398B), December 2013
Public Parks Bylaw, 2010

### 7.2. Sustainability implications

Does the activity in this report have any sustainability implications for the City?	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
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The report is for information and directive regarding the process for the management of the Lourens River PNE.

### 7.3. Financial Implications

There are no financial implications as the report is for information and directive regarding the process for the management of the Lourens River PNE. The recommendations from the investigative report, which might have financial implications, will be considered once it is received from the working group.

### 7.4. Legal Implications

The report is for information and directive regarding the process for the management of the Lourens River PNE. The integrity of the water quality of the river is compromised and has deteriorated due to unlawful activities at certain portions of the PNE. This and a number of legislation are being transgressed given the situation described herein.

The recommendations from the investigative report, which might have further legal implications, will be considered once it is received from the working group.

**7.5. Staff Implications**

Does your report impact on staff resources or result in any additional staffing resources being required?

No

Yes

**7.6. POPIA Compliance**

It is confirmed that this report has been checked and considered for POPIA Compliance.

**7.7. Other Services Consulted**

Environmental Management  
Coastal Management  
Environmental & Heritage Management  
Health Inspectorate  
Catchment, Stormwater & River Management Bulk Services  
District Planning and Mechanism, Urban Planning and Design  
Road Infrastructure Management  
Transport  
Water Waste Management  
Solid Waste Collection  
Solid Waste Management  
Recreation and Parks  
Displaced People's Unit  
Metro Police  
Law Enforcement  
Social Development and ECD  
Urban Regeneration  
Public Participation Unit  
Ward Councillor

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**ANNEXURE: NONE**

**FOR FURTHER DETAILS CONTACT:**

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*EWilliams*

**SUBCOUNCIL MANAGER**

Comment:

NAME        ERIKA WILLIAMS  
DATE        21 NOVEMBER 2023

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X    REPORT COMPLIANT WITH THE PROVISIONS OF COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS AND ALL LEGISLATION RELATING TO THE MATTER UNDER CONSIDERATION.