



REFERENCE: 16/3/3/1/D2/19/0007/22
ENQUIRIES: Shireen Pullen
DATE OF ISSUE: 20 September 2022

The Director
Department of Transport and Public Works of the Western Cape
Private Bag X9185
CAPE TOWN
8000

Attention: Azni November

Tel: (021) 483 0536

Email: azni.november@westerncape.gov.za

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): PROPOSED UPGRADING AND MAINTENANCE OF A SECTION OF DIVISIONAL ROAD (DR) 1618 AND UPGRADING OF GWAING CAUSEWAY, BLANCO, GEORGE MUNICIPALITY

With reference to your application for the abovementioned, find below the outcome with respect to this application.

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to **the Preferred Alternative**, described in the Final Basic Assessment Report ("FBAR"), dated 31 May 2022 as prepared and submitted by Hilland Environmental, the appointed Environmental Assessment Practitioner ("EAP").

The applicant for this Environmental Authorisation is required to comply with the conditions set out in section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Director
 Department of Transport and Public Works of the Western Cape
 % Azni November
 Private Bag X9185
CAPE TOWN
 8000

Tel: (021) 483 0536
 Email: azni.november@westerncape.gov.za

The abovementioned applicant is the holder of this Environmental Authorisation (hereinafter referred to as "**the Holder**").

B. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<i>Environmental Impact Assessment Regulations Listing Notice 1</i> <i>Government Notice No. 326 of 7 April 2017</i>	
Activity Number: 19 Activity Description: The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse; but excluding where such infilling, depositing, dredging, excavation, removal or moving— (a) will occur behind a development setback; (b) is for maintenance purposes undertaken in accordance with a maintenance management plan; (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies; (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or	<i>The upgrading and maintenance to the existing flood damaged Gwaing River causeway as well as maintenance of all the existing culverts within the affected area of the upgrade of the DR1618 and approaching the Gwaing causeway to improve the existing drainage movement of material within the existing drainage culverts, inlets and outlets will be required. Cumulatively this will result in the infilling and or dredging of more than 10 cubes of sand from the watercourse.</i>

<p>where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</p> <p>Activity Number 48</p> <p>Activity Description:</p> <p>The expansion of—</p> <ul style="list-style-type: none"> (i) infrastructure or structures where the physical footprint is expanded by 100 square metres or more; or (ii) dams or weirs, where the dam or weir, including infrastructure and water surface area, is expanded by 100 square metres or more; where such expansion occurs— <ul style="list-style-type: none"> (a) within a watercourse; (b) in front of a development setback; or (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; excluding— <ul style="list-style-type: none"> (aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; (bb) where such expansion activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies; (cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies; (dd) where such expansion occurs within an urban area; or (ee) where such expansion occurs within existing roads, road reserves or railway line reserves. 	<p><i>The upgrading and maintenance to the existing flood damaged Gwaing River Causeway and various culverts.</i></p> <p><i>The main activity is within the existing road reserve and therefore falls with the exclusion, however work is planned to extend beyond the road reserve in order to protect the downstream riverbed and bank (exact position of the road reserve has not be defined in relation to the proposed design of the Gwaing River Causeway).</i></p> <p><i>All other culverts and crossings fall within the road reserve (either existing or newly expropriated).</i></p>
--	--

Environmental Impact Assessment Regulations Listing Notice 3

Government Notice No. 324 of 7 April 2017

<p>Activity Number: 12</p> <p>Activity Description:</p> <p>The clearance of an area of 300m² or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</p> <ul style="list-style-type: none"> (i) Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEM:BA or prior to the publication of such a list, within an area that 	<p><i>The upgrade of the road requires the realignment of the road reserve in areas and this will require the disturbance and clearing of vegetation along the route.</i></p> <p><i>Although the entire route is within transformed farmlands, the area is "mapped" as forming part</i></p>
--	---

<p>has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;</p> <p>(ii) Within critical biodiversity areas identified in bioregional plans;</p> <p>(iii) Within the littoral active zone or 100m inland from the high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas;</p> <p>(iv) On land, where, at the time of the coming into effect of this Notice or thereafter such a land was zoned open space, conservation or had an equivalent zoning; or</p> <p>(v) On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.</p> <p><i>Activity Number: 18</i></p> <p><i>Activity Description:</i></p> <p>The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre.</p> <p>Western Cape</p> <ol style="list-style-type: none"> i. Areas zoned for use as public open space or equivalent zoning; ii. All areas outside urban areas: <ol style="list-style-type: none"> (aa) Areas containing indigenous vegetation; (bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or iii. Inside urban areas: <ol style="list-style-type: none"> (aa) Areas zoned for conservation use; or (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority. 	<p>of an Endangered Ecosystem (Garden Route Granite Fynbos). The remaining extent mapping correctly reflects the transformed nature of the area showing no remaining endangered ecosystem.</p> <p>None of the areas to be cleared support any remaining natural ecosystem vegetation (all cultivated lands). This has been confirmed by CapeNature. This activity is therefore Not Applicable.</p> <p>The upgrade of the road requires the realignment of the road reserve in areas and this will result in widening by more than 4m. However, the remaining extent mapping correctly reflects the transformed nature of the area (all cultivated lands). This activity is therefore Not Applicable</p>
--	---

The abovementioned list is hereinafter referred to as “**the listed activities**”.

The Holder is herein authorised to undertake the following alternative that includes the listed activity as it relates to the development and development footprint area:

The proposed development will entail the maintenance and repair of the existing flood damaged Gwaing Causeway at KM 6.717 (DR1618). It will include the following:

- The upgrading of the existing low-level causeway crossing by replacing the existing five (5) 450mm diameter pipe culverts with three (3) 2.1m by 1.5m portal culverts according to the engineering specifications and requirements as informed by the Fresh Water Specialist's requirements.
- The re-establishment of the natural base flow through a rock blanket (gabion baskets) under the causeway to allow continual base flow spread out over the whole floodplain area and widening the causeway to accommodate a larger area of spread flow during flood events.
- The removal of accumulated material that has deposited upstream of the causeway on the inner bank (due to the flow being concentrated in a smaller area) in order to prevent the continued erosion into the peat layer and the undercutting of the outer bank which threatens the road.
- Minor realignments of the road which will entail minor expropriation of portions of private farmland adjacent to the road in order to achieve the required vertical and horizontal alignments for the proposed upgrade.

C. SITE DESCRIPTION AND LOCATION

The DR 1618, a gravel road providing access to farms along the route, connects the TR 2/9 (R102) and MR 347 (R404) and consist of a 1.47 km surfaced portion - where the road passes the Links Golf course at Fancourt.

The site has been entirely transformed through its development as a road since prior to 1939 and has not been used for agricultural activities and has no residual agricultural value. The small expropriation areas that form part of the proposal has also been transformed due to the proximity to the boundary fence.

Coordinates:

Latitude (South)	Longitude (East)
34° 0'24.07"	22° 24' 15.71"

SG digit code: C02700000000020800000

Refer to Annexure 1: Locality Plan of this Environmental Authorisation.

The above is hereinafter referred to as "**the site**".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

Hilland Environmental
% Ms Cathy Avierinos
PO Box 590

GEORGE
6530

Tel: (044) 889 0229

Email: cathy@hilland.co.za

Website: www.hilland.co.za

E. CONDITIONS OF AUTHORISATION

Scope and Validity Period of authorisation

1. This Environmental Authorisation is granted for the period from the date of issue until **20 September 2034 and all construction activities must be concluded by this date.**

1.1 The holder must commence with the listed activities and conclude the development activities (construction phase) by **20 September 2029**. All rehabilitation must be completed by the said date;

1.2 The holder must finalise the post construction rehabilitation and monitoring requirements within a period of 6-months from the date the development activity (construction phase) is concluded, but no later than 20 September 2029; and

1.3 The maintenance management plan contained in the Environmental Management Programme (EMPr) is valid for a period of 5 years from the date on which construction activities are concluded, but no later than 20 September 2034.

Failing which, this Environmental Authorisation shall lapse, unless the environmental authorisation is amended in accordance with the relevant process contemplated in the Environmental Impact Assessment Regulations promulgated under the National Environmental Management Act, 1998 (Act no. 107 of 1998).

2. The Holder is authorised to undertake the listed activities specified in Section B above in accordance with the Preferred Alternative described in the FBAR dated 31 May 2022 on the proposed site as described in Section C above.

The Holder is herein authorised to undertake the following alternative that includes the listed activity as it relates to the development and development footprint area:

The proposed development will entail the maintenance and repair of the existing flood damaged Gwaing Causeway at KM 6.717 (DR1618), which includes the following:

- The upgrading of the existing low-level causeway crossing by replacing the existing five (5) 450mm diameter pipe culverts with three (3) 2.1m by 1.5m portal culverts according to the engineering specifications and requirements as informed by the Fresh Water Specialist's requirements.
 - The re-establishment of the natural base flow through a rock blanket (gabion baskets) under the causeway to allow continual base flow spread out over the whole floodplain area and widening the causeway to accommodate a larger area of spread flow during flood events.
 - The removal of accumulated material that has deposited upstream of the causeway on the inner bank (due to the flow being concentrated in a smaller area) in order to prevent the continued erosion into the peat layer and the undercutting of the outer bank which threatens the road.
 - In order to achieve the required vertical and horizontal alignments for the proposed upgrade, there will be minor realignments of the road which will entail minor expropriation of portions of private farmland adjacent to the road.
3. This Environmental Authorisation may only be implemented in accordance with an approved Environmental Management Programme ("EMPr").
 4. The Holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the Holder.
 5. Any changes to, or deviations from the scope of the alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the Holder to apply for further authorisation in terms of the applicable legislation.

Notification and administration of appeal

6. The Holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 6.1. notify all registered Interested and Affected Parties ("I&APs") of –
 - (a) the decision reached on the application;
 - (b) the reasons for the decision as included in Annexure 3;
 - (c) the date of the decision; and
 - (d) the date when the decision was issued.
 - 6.2. draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 (as amended) detailed in Section G below;

- 6.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
- 6.4. provide the registered I&APs with the:
- (a) name of the Holder (entity) of this Environmental Authorisation,
 - (b) name of the responsible person for this Environmental Authorisation,
 - (c) postal address of the Holder,
 - (d) telephonic and fax details of the Holder,
 - (e) e-mail address, if any, of the Holder,
 - (f) contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).
- 6.5. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision.
- 6.6. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

Written notice to the Competent Authority

7. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities.
- 7.1. The notice must make clear reference to the site details and EIA Reference number given above.
- 7.2. The notice must also include proof of compliance with the following conditions described herein: **Conditions: 9, 10, 12, 13.1 and 20**
- 7.3. Seven calendar days' notice, in writing, must be given to the Competent Authority on the commencement of any maintenance activities to be undertaken during the period that the environmental authorisation is valid.
8. Seven calendar days' written notice must be given to the Competent Authority on completion of the construction activities.

Management of activity

9. The Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended to incorporate the following —
- (a) All ECO monthly compliance monitoring reports **must** be submitted to this Directorate on a monthly basis.
 - (b) Incorporate all the conditions given in this Environmental Authorisation;
 - (c) A map which indicates the no-go areas which must be demarcated, prior to commencement of construction activities.
 - (d) Include the final design plan and specific maintenance method statements.

10. The amended EMPr must be submitted to the Competent Authority prior to the construction activities commencing on site.

11. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

12. The Holder must appoint a suitably experienced Environmental Control Officer ("ECO"), for the duration of the construction and rehabilitation phases of implementation contained herein.

13. The ECO must–

13.1. be appointed prior to commencement of any works (i.e. removal and movement of soil;

13.2. ensure compliance with the EMPr and the conditions contained herein;

13.3. keep record of all activities on the site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;

13.4. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised.

14. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, audit reports and compliance monitoring reports must be kept at the site of the authorised activities and be made available to anyone on request, and where the Holder has website, such documents must be made available on such publicly accessible website.

15. Access to the site referred to in Section C must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Auditing

16. The Holder must, for the period during which the environmental authorisation; and EMPr remain valid ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited.

17. The frequency of auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr, must adhere to the following programme:

17.1. Auditing during the non-operational phase (construction activities):

- (a) During the period which the activities have been commenced with on site until the construction of the major culvert and post construction rehabilitation and monitoring requirements have been completed, the Holder must ensure annual environmental audit(s) are undertaken and the Environmental Audit Report(s) submitted annually to the Competent Authority.
- (b) A final Environmental Audit Report for the construction phase (non-operational component) must be submitted to the Competent Authority within **three (3) months** of completion of the post construction rehabilitation and monitoring requirements.

18. The Environmental Audit Report(s), must –

- 18.1. be prepared and submitted to the Competent Authority, by an independent person with the relevant environmental auditing expertise. Such person may not be the ECO or EAP who conducted the EIA process;
 - 18.2. provide verifiable findings, in a structured and systematic manner, on–
 - (a) the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
 - (b) the ability of the measures contained in the EMPr to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.
 - 18.3. identify and assess any new impacts and risks as a result of undertaking the activity;
 - 18.4. evaluate the effectiveness of the EMPr;
 - 18.5. identify shortcomings in the EMPr;
 - 18.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
 - 18.7. indicate the date on which the construction work was commenced with and completed or in the case where the development is incomplete, the progress of the development and rehabilitation;
 - 18.8. indicate the date on which the maintenance/ rehabilitation was commenced with and the progress of the rehabilitation;
 - 18.9. include a photographic record of the site applicable to the audit; and
 - 18.10. be informed by the ECO reports.
19. The Holder must, within 7 calendar days of the submission of the audit report to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

Specific Conditions

20. The No-Go areas must be physically and clearly demarcated, prior to any earthworks or construction activities commencing. This area may not be used to store any materials. All construction related activities such as materials storage and site camp establishment must occur within an identified area approved by the ECO.
21. A final design plan of the structures and the specific method statements for the maintenance works must be submitted to the Competent Authority prior to the construction and maintenance commencing. This final design plan and detailed method statements for maintenance must be included in the amended EMPr that must be submitted to the competent authority prior to commencement.
22. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape. Heritage remains may only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant Heritage Resources Authority.

Heritage remains include: meteorites, archaeological and/or paleontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; shipwrecks; and/or graves or unmarked human burials including grave goods and/or associated burial material.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the Holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.

Amendment of Environmental Authorisation and EMPr

2. If the Holder does not start with all listed activities and exceed the threshold of each listed activity within the period referred to in Section G, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the relevant Competent Authority.

Where a validity period has been specified for operational aspects, the onus is on the Holder to ensure the activities are always undertaken in terms of a valid environmental authorisation.

If the Holder wishes to extend a validity period specified in the Environmental Authorisation, an application for amendment in this regard must be made to the relevant Competent Authority prior to the expiry date of such a period.

Note:

- (a) Failure to lodge an application for amendment prior to the expiry of the validity period of the Environmental Authorisation will result in the lapsing of the Environmental Authorisation.
 - (b) It is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity if the competent authority has not granted an Environmental Authorisation for the undertaking of the activity.
3. The Holder is required to notify the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated.

In assessing whether to amend or correct the EA, the Competent Authority may request information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the Holder to apply for further authorisation in terms of the applicable legislation.

The onus is on the Holder to verify whether such changes to the environmental authorisation must be approved in writing by the relevant competent authority prior to the implementation thereof.

Note: An environmental authorisation may be amended or replaced without following a procedural requirement contained in the Regulations if the purpose is to correct an error and the correction does not change the rights and duties of any person materially

4. The manner and frequency for updating the EMPr is as follows:
- (a) Any further amendments to the EMPr, other than those mentioned above, must be approved in writing by the relevant competent authority.
 - (b) An application for amendment to the EMPr must be submitted to the Competent Authority if any amendments are to be made to the impact management outcomes of the EMPr. Such amendment(s) may only be implemented once the amended EMPr has been approved by the competent authority.

The onus is however on the Holder to confirm the legislative process requirements for the above scenarios at that time.

5. Where an amendment to the impact management outcomes of an EMPr is required before an environmental audit is required in terms of the environmental authorisation, an EMPr may be amended on application by the Holder of the environmental authorisation.

Compliance with Environmental Authorisation and EMPr

6. Non-compliance with a condition of this environmental authorisation or EMPr is an offence in terms of Section 49A(1)(c) of the National Environmental Management Act, 1998 (Act no. 107 of 1998, as amended).
7. This Environmental Authorisation is granted for a set period from date of issue, during which period all the listed activities must be commenced with and concluded, including the post-construction rehabilitation; monitoring requirements and environmental auditing requirements which must be concluded.

The maintenance management plan contained in the Environmental Management Programme (EMPr) is valid for a further 5-year period from the date on which construction activities are concluded, but no later than 20 September 2034.

8. This Environmental Authorisation is subject to compliance with all the peremptory conditions (i.e. **9, 12, 13.1 and 20**). Failure to comply with all the peremptory conditions prior to the physical implementation of the activities (including site preparation) will render the entire EA null and void. Such physical activities shall be regarded to fall outside the scope of the Environmental Authorisation and shall be viewed as an offence in terms of Section 49A(1)(a) of NEMA.
9. In the event that the Environmental Authorisation should lapse, it is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity, unless the competent authority has granted an Environmental Authorisation for the undertaking of the activity.
10. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

G. APPEALS

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs including any Organ of State with interest in the matter; and
 - 1.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:
Gavin.Benjamin@westerncape.gov.za and copied to
DEADPEIAadmin.George@westerncape.gov.za

2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 2.2 Submit a copy of the appeal to the holder of the decision and any registered I&AP including any Organ of State with an interest in the matter; and
 - 2.3 Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:

Gavin.Benjamin@westerncape.gov.za and copied to

DEADPEIAadmin.George@westerncape.gov.za

3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the Appeal Administrator at the address listed below:

By post: Western Cape Ministry of Local Government, Environmental Affairs
and Development Planning

Private Bag X9186

CAPE TOWN

8000

By facsimile: (021) 483 4174; or

By hand: Appeal Administrator

Attention: Mr Marius Venter (Tel: 021 483 3721)

Room 809

8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/or via e-mail to DEADP.Appeals@westerncape.gov.za.

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from the Appeal Administrator at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this Environmental Authorisation shall not be responsible for any damages or losses suffered by the Holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Your interest in the future of our environment is appreciated.

Yours faithfully

MR. ZAAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT

WCG: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: 20 SEPTEMBER 2022

Ms. Cathy Avierinos

Hilland Environmental

Email: cathy@hilland.com /
environmental2@hilland.co.za /
environmental@hilland.co.za

Ms. L. Mooiman

George Municipality
1596/2008

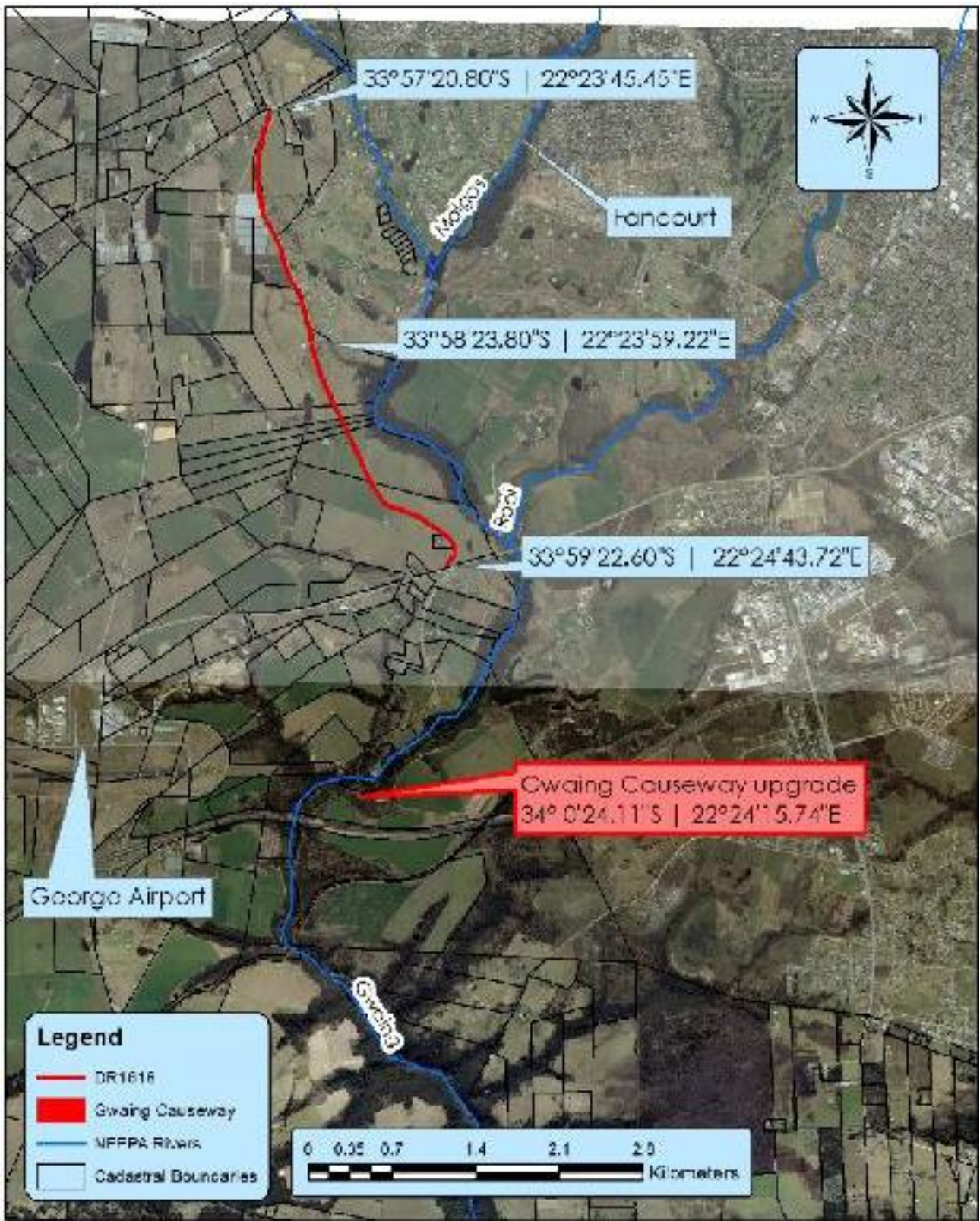
Email: lc mooiman@george.gov.za

FOR OFFICIAL USE ONLY:

EIA REFERENCE NUMBER: 16/3/3/1/D2/19/0007/22

NEAS REFERENCE: WCP/EIA/0001053/2022

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, *inter alia*, the following:

- a) The information contained in the Application Form received on 25 February 2022, the Final Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 31 May 2022;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the FBAR dated 31 May 2022;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and commemorate

The Department had sufficient information at its disposal to understand the environmental and spatial context and the case officer is also familiar with the site and surrounding area. All information presented to the Competent Authority was taken into account in the consideration of the application for Environmental Authorisation. A summary of the issues that were considered to be the most significant for the decision is set out below.

1. Public Participation

A sufficient public participation process was undertaken, and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulation 2014 for public involvement. The public participation process included the following:

- Submission of Public Participation Plan that was approved by this Directorate on 24 January 2022;
- Meetings with neighbours and pre-application Background Information Document (BID) was circulated and expropriation meetings were held to discuss the implications of the proposal. (BID circulated 28 June 2019 & Expropriation meetings held in 2017, 2018 & 2019 – SNA Engineers.
- Identification of and engagement with interested and affected parties (I&APs) including organs of state which have jurisdiction in respect of the activity to which the application relates;
- Fixing a notice board at the following locations on 30 August 2019 and 27 January 2022:
 - At approximately KM 0.5 on the fence of Portion 111 of Farm 209;
 - At approximately KM 1.2 on the fence of the Remainder of Portion 78 of Farm 209;
 - At approximately KM 1.9 on the fence of Portion 25 of Farm 209;
 - At approximately KM 2.7 on the fence of Portion 29 of Farm 209;
 - At approximately KM 4 on the fence of Portion 108 of Farm 208; and
 - At the Gwaing River Causeway.

- Giving written notice to the owners and occupiers of land adjacent to the site and any alternative site where the listed activities are to be undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 22 February 2021;
- Draft BAR was circulated to all registered Interested & Affected Parties for 30-day commenting period (25 March 2022 – 26 April 2022).
- Placement of legal advertisement of the Draft BAR in the George Herald – 13 June 2019 & 27 January 2022

The following Organs of State provided comment on the proposal:

- ❖ *Heritage Western Cape;*
- ❖ *Department of Agriculture;*
- ❖ *Department of Transport and Public Works;*
- ❖ *Eden District Municipality*
- ❖ *Breede Gouritz Catchment Management Agency; and*
- ❖ *CapeNature*
- ❖ *Department of Forestry*

Aquatic and Agriculture Specialists have confirmed and support the surfacing and maintenance to the DR1618 and upgrading and maintenance to the Gwaing Causeway.

BGCMA has issued a General Authorisation (GA) for the upgrading and maintenance to the Gwaing Causeway and CapeNature has confirmed that the proposed work areas (upgrading of the road and Gwaing Causeway) are within already transformed areas, and therefore a Terrestrial Biodiversity Assessment will not be required. In addition hereto, the Civil Aviation Authority has confirmed that no Obstacle application would be required since the Road Surface would automatically have a 5m Obstruction Movement Buffer.

All the comments and issues raised by the respective Organs of State that were captured in the Basic Assessment Report were responded to by the EAP. The proposed maintenance and repair works mainly received support from the relevant parties. The Competent Authority is satisfied with the responses obtained from the EAP and the additional consultation with Organs of State.

2. Alternatives

The preferred property and site alternative is defined by the existing road reserve and the minor realignments required to meet the road safety design criteria of the DR1618 and the existing Gwaing Causeway. No site alternatives were considered due to the nature of the proposal.

Design alternative

The preferred design or layout alternative includes widening, surfacing and realignment of the existing DR1618 and this requires minimal expropriation of private property (agricultural land).

Activity alternative

The only other activity alternative that was considered and rejected was to surface the existing gravel road without any realignment or expropriation. This was rejected due to the design parameters for a Class 3 surfaced road and the related road safety requirements. No further investigation was therefore undertaken as this alternative was not reasonable or feasible.

Gwaing causeway

The upgrading and maintenance of the Gwaing Causeway has no site, design or activity alternatives due to the nature of the crossing in relation to the existing road.

Preferred Alternative

The preferred alternative entails the maintenance and repair of the existing flood damaged Gwaing Causeway at KM 6.717 (DR1618). It will include the following:

- The upgrading of the existing low-level causeway crossing by replacing the existing five (5) 450mm diameter pipe culverts with three (3) 2.1m by 1.5m portal culverts according to the engineering specifications and requirements as informed by the Fresh Water Specialist's requirements.
- The re-establishment of the natural base flow through a rock blanket (gabion baskets) under the causeway to allow continual base flow spread out over the whole floodplain area and widening the causeway to accommodate a larger area of spread flow during flood events.
- The removal of accumulated material that has deposited upstream of the causeway on the inner bank (due to the flow being concentrated in a smaller area) in order to prevent the continued erosion into the peat layer and the undercutting of the outer bank which threatens the road.
- In order to achieve the required vertical and horizontal alignments for the proposed upgrade, there will be minor realignments of the road which will entail minor expropriation of portions of private farmland adjacent to the road.

A final design plan as well as specific maintenance method statements must be submitted to this Directorate as part of the EMPr.

3. Impact Assessment and Mitigation Measures

3.1 Site

According to the BAR the proposed upgrading and maintenance to the section of the DR1618 falls outside of any Critical Biodiversity Areas (CBAs) Ecological Support Areas (ESAs) and Other Natural Areas (ONAS), however, the upgrading and maintenance to the Gwaing Causeway is located in a CBA 1 (Terrestrial, Aquatic and Wetland), CBA 2 and ESA 2 (to restore). Notwithstanding this, the site is entirely transformed by the construction of the road.

The proposed development is in line with the management and objectives of the identified spatial priority areas. Furthermore, it will also improve the instream habitat connectivity along the river and it will also mitigate impacts that are currently experienced at the crossing every time the causeway fails during flood events.

3.2 Activity need and desirability

Based on a survey that was conducted by the SNA Civil and Structural Engineering team for Provincial Roads to identify the requirement for the upgrade the DR 1618 Road from a gravel road to a surfaced road (Class 3), the need was identified that the gravel DR 1618 Road and associated stormwater infrastructure is in poor condition and that the alignment of the gravel DR 1618 Road does not allow for safe travel at a speed of 80 km/h. Based on the poor and unsafe conditions of the gravel DR 1618 Road a road re-alignment was in the best interest of the local community and road users. The section to be upgraded (DR1618) mainly serves the farming community, but once upgraded it is envisioned that the road will provide a better link between the MR and TR road. The main objective of upgrading the road is to ensure it is safe to drive, as well as to provide easy access to an area where increased traffic flow is expected. This is in support of the PSDF, the George Local Municipality IDP and SDF and the Garde Route District SD.

3.3 Provincial Spatial Development Framework (PSDF)

The BAR submits that the proposed development entails investing in new regional economic infrastructure to unlock the potential of the emerging George/Mossel Bay node and is therefore in line with one of the Key Provincial space-economy challenges as identified in the PSDF which call for. It is identified that infrastructure investment can be used as the primary lever to bring about the required urban and rural spatial transitions - this agenda encompasses of maintaining existing infrastructure.

Furthermore, the PSDF focuses on implementing and improving public transport and in order to achieve this, current infrastructure (roads) needs to be properly maintained and upgraded to suitable standards which the proposed project will address by improving and upgrading of the current road infrastructure. One of the challenges the PSDF takes on is the restructuring of regions and settlements to offer the benefits to and therefore this proposed project contributes by being an integrated transport and land use planning proactive intervention instead of an uncoordinated transport system and land use planning that are more of a remedial intervention.

According to the BAR the proposed project also aims to provide balanced access to public roads and to the affected farm portions by the upgrading the existing gravel road. An objective highlighted in the PSDF is biodiversity protection which is described as "Optimise the use of existing resources including such resources relating to agriculture, land, minerals, bulk infrastructure, roads, transportation and social facilities". The proposed project will include the upgrading of DR1618 to a Class 3 surface road, and upgrading and maintenance of the existing Gwaing River Causeway, without adversely affecting the biodiversity of the area. The proposed development is, therefore, in line with the PSDF.

3.4 Mossel Bay Spatial Development Framework (SDF)

The proposed project is in line with policy B of the theme of "Infrastructure that invests in people and their socio-economic mobility..." by providing improved access and transport network to the local community. The upgrading (surfacing) of the gravel road, as identified in Policy F of the MSDF, will add to the medium to long term growth of the city by reinforcing the existing accessibility and infrastructure network, it also minimises the impact on the natural landscape by having construction remain largely within the existing road reserve. This proposed project is in line with Policy A by maintaining, expanding and improving the basic service delivery and infrastructure maintenance.

3.5 Integrated Development Plan (IDP)

According to the BAR the proposed development will add to the economic growth of George, as various farms are situated along the route. Furthermore, the surrounding landscape of the DR 1618 forms a strong part of the identity of George and connects to a rural tourism sector that is central to George's identity and has much potential. The lands are also of significant agricultural value. Additionally, various short-term jobs will be created as a result of the upgrade of the road, creating opportunities for growth. The proposed development can therefore be considered to be in line with the SDF and IDP.

3.6 Garden Route Environmental Management Framework (Mossel Bay EMP)

In accordance with the Garden Route Environmental Management Framework, the proposed upgrade of the DR 1618 will not compromise the integrity of the existing environmental priorities for the area. The proposed project does not have a negative impact on the riparian ecosystem as identified as an objective to protect and conserve (Garden Route EMF 2010) since the proposed work to be done within the Gwaing River is for the flood damage repair to the existing causeway and the impact associated is of low risk. The work will improve the instream habitat connectivity along the river reach and will also mitigate impacts currently experienced at the crossing.

According to the BAR, the proposed project is also in line with the Visually Sensitive Landscape Geographical Areas by protecting the sense of place in the Garden Route and it enhances the visual quality of this prominent tourist route by upgrading and maintenance of the existing road.

3.7 Biophysical Impacts

❑ *Aquatic environment:*

The upgrading and maintenance of the Gwaing Causeway is located in the Gwaing River and the Freshwater Assessment concluded that it is unlikely that the proposed repairs and upgrade will cause any further deterioration than already done by intensive agricultural land uses and the damage caused each time the current causeway fails and is temporarily repaired. The proposed repairs and upgrade will improve the instream habitat connectivity along the river reach and it will also mitigate impacts that are currently experienced at the crossing.

❑ *Terrestrial Biodiversity*

Although the terrestrial biodiversity sensitivity rating was rated as "very high", this was disputed by the EAP and the remaining Threatened Ecosystem mapping confirmed that the site is not located within a Critical Endangered Ecosystem and was entirely transformed. CapeNature has also confirmed that a Terrestrial Biodiversity Assessment is not required for this project since the road reserve and proposed expropriation areas are already transformed.

❑ *Agriculture*

The Agricultural Compliance Statement concluded that *"Only a portion of the proposed expropriated sites are used for productive agriculture. The fact that the gravel road is a limiting factor for crop production, and in the case of approval will be surfaced, there will be a benefit to agricultural production. The agricultural impact of the proposed expropriation will be to permanently exclude agriculture from the specific zones. The conclusion of this assessment is that the proposed development will not have an unacceptable negative impact on the agricultural production capability of the adjacent farms and the surfacing of the road will lead to an improvement in agricultural capability."*

3.8 Heritage / Archaeological Aspects

A Notification of Intent to Develop (NID) was submitted to Heritage Western Cape (HWC), outlining the project, as well as the history of the area. HWC confirmed that a Heritage Impact Assessment (HIA) is not required.

In considering the above, the view is held that the applicant has adequately considered the heritage and archaeological aspects and that the proposed development will not result in significant negative impact on these. The competent authority is satisfied that the evaluation fulfils the requirements of the relevant heritage resources authority in terms of the National Heritage Resources Act, 1999 and the comments and recommendations of the relevant heritage resources authority regarding the proposed development have been taken into account.

3.9 Impact Assessment

The proposed development will result in negative, as well as positive impacts. It is however the opinion of this Directorate that the positive impacts of the proposal will largely outweigh the negative impacts of the development proposal.

Positive impacts:

- increase the safety of the users of the road;
- the surfacing of the road will lead to an improvement in agricultural capability (less dust impact);
- rehabilitation of severely damaged Gwaing causeway and riverbanks;
- improved instream flow in the Gwaing and improvement in the associated habitats; and
- less disturbance to the receiving environment – already disturbed and transformed road reserve.

Negative impacts:

- minor construction phase associated disruption in traffic flow;
- disruption in flow in the Gwaing River while working on the new causeway – temporary diversion of flow during the construction; and
- minor loss of agricultural land for the road realignment.

3.10 Other Impacts

No other impacts of significance are anticipated.

1. **Scope and Validity Period of authorisation**

The applicant has indicated that the construction activities (non-operational aspects) should commence within 5 years of the date of issue of the environmental authorisation and be

completed within 2 years from the date of commencement. Maintenance in terms of the MMP contained in the EMPr is granted for a period of 5 years from the date the construction activities are concluded, but no later than 20 September 2034. The environmental authorisation's validity period has been granted for a period of twelve (12) years, during which period the construction activities must commence and be concluded, including the post-construction rehabilitation and monitoring, maintenance and submission of the final environmental audit. In light of the proposed implementation programme, the monitoring and post-construction rehabilitation can be adequately incorporated in the construction phase. Where the activity has been commenced with, the EIA Regulations, 2014 allow that (upon application) the period for which the environmental authorisation is granted may be extended for a further period of 5-years.

2. National Environmental Management Act Principles

The National Environmental Management Principles (set out in section 2 of the NEMA, which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

3. Conclusion

After consideration of the information and factors listed above, the Department made the following findings:

- (a) The identification and assessment of impacts are detailed in the FBAR dated 31 May 2022 and sufficient assessment of the key identified issues and impacts have been completed.
- (b) The procedure followed for the impact assessment is adequate for the decision-making process.
- (c) The proposed mitigation of impacts identified and assessed, curtails the identified negative impacts.
- (d) The EMPr proposed mitigation measures for the pre-construction, construction and rehabilitation phases of the development and were included in the FBAR. The mitigation measures will be implemented to manage the identified environmental impact during the construction phase.

Due consideration is also given to the person's duty of care described in Section 28 of NEMA:

“Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment”.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with an approved EMPr, the Competent Authority is satisfied that the proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

----- END -----