



**REFERENCE NUMBER:** 14/2/1/2/E2/10/0091/15

**ENQUIRIES:** Shafeeq Mallick

**BY REGISTERED MAIL**

The Managing Director  
Mystic Pearl 133 (Pty) Ltd  
Postnet Suite 1  
Private Bag X22  
TYGERVALLEY  
7536

Tel: (021) 914 6444  
Fax: (021) 914 6247  
Email: [ambertus@propergation.co.za](mailto:ambertus@propergation.co.za)

**Attention: Mr Lambertus van Zyl**

Dear Sir

**APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): CONSTRUCTION OF STRUCTURES WITHIN 32m OF A WATERCOURSE ON FARM 220, SANDOWN ESTATE, GANSBAAI**

With reference to your application dated 10 June 2015 in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

**ENVIRONMENTAL AUTHORISATION**

**A. DECISION**

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C below in accordance with the Environmental Impact Report ("EIR") dated 7 April 2016.

The granting of this Environmental Authorisation is for the continuation, conducting or undertaking of the listed activities as described in Section C below and is subject to compliance with the conditions set out in Section G. This Environmental Authorisation shall only take effect from the date on which it has been issued.

The Environmental Authorisation does not exempt the holder thereof from compliance with any other applicable legislation.

## B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Mystic Pearl 133 (Pty) Ltd  
 c/o Mr Lambertus van Zyl  
 Postnet Suite 1  
 Private Bag X22  
 TYGERVALLEY  
 7536

Tel: (021) 914 6444  
 Fax: (021) 914 6247  
 Email: ambertus@propergation.co.za

The abovementioned applicant is the holder of this Environmental Authorisation and is hereinafter referred to as "the holder".

## C. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<p>Government Notice No. R386 of 2006 –  <b>Activity Number: 1(m)</b>            Activity Description: "The construction of facilities or infrastructure, including associated structures or infrastructure, for –            (m) any purpose in the one in ten-year</p>	<p>In May 2009, the holder elevated the surface of an existing road which traverses the Uilkraal River. This was done by excavating fill material adjacent to the road and compacting it to the surface of the road. In order to prevent river flow, various culvert structures were installed along the road length. Two</p>

<p>flood line of a river or stream, or within 32 metres from the bank of a river or stream where the flood line is unknown, excluding purposes associated with existing residential use, but including -</p> <ul style="list-style-type: none"> <li>(i) canals;</li> <li>(ii) channels;</li> <li>(iii) bridges;</li> <li>(iv) dams; and</li> <li>(v) weirs;"</li> </ul>	<p>bridge structures were installed on the applicant's property.</p> <p>The flood plain of the Uilkraal River on the property exhibits some degree of tidal influence due to the proximity of the river mouth and estuary.</p>
<p>Government Notice No. R386 of 2006 – <b>Activity Number: 2</b> Activity Description: "Construction or earth moving activities in the sea or within 100 metres inland of the high-water mark of the sea, in respect of –</p> <ul style="list-style-type: none"> <li>(a) facilities for the storage of material and the maintenance of vessels;</li> <li>(b) fixed or floating jetties and slipways;</li> <li>(c) tidal pools;</li> <li>(d) embankments;</li> <li>(e) stabilising walls;</li> <li>(f) buildings; or</li> <li>(g) infrastructure."</li> </ul>	<p>In May 2009, the holder elevated the surface of an existing road which traverses the Uilkraal River. This was done by excavating fill material adjacent to the road and compacting it to the surface of the road. In order to prevent river flow, various culvert structures were installed along the road length. Two bridge structures were installed on the applicant's property.</p> <p>The flood plain of the Uilkraal River on the property exhibits some degree of tidal influence due to the proximity of the river mouth and estuary.</p>
<p>Government Notice No. R386 of 2006 – <b>Activity Number: 4</b> Activity Description: "The dredging, excavation, removal or moving of soil, sand or rock exceeding 5 cubic metres from a river, tidal lagoon, tidal river, lake, in-stream dam, floodplain or wetland."</p>	<p>In May 2009, the holder elevated the surface of an existing road which traverses the Uilkraal River. This was done by excavating fill material adjacent to the road and compacting it to the surface of the road. In order to prevent river flow, various culvert structures were installed along the road length. Two bridge structures were installed on the applicant's property.</p> <p>The flood plain of the Uilkraal River on the property exhibits some degree of tidal influence due to the proximity of the river mouth and estuary.</p>

<p>Government Notice No. R386 of 2006 –  <b>Activity Number: 6</b>  Activity Description: "The excavation, moving, removal, depositing or compacting of soil, sand, rock or rubble covering an area exceeding 10 square metres in the sea or within a distance of 100 metres inland of the high-water mark of the sea."</p>	<p>In May 2009, the holder elevated the surface of an existing road which traverses the Uilkraal River. This was done by excavating fill material adjacent to the road and compacting it to the surface of the road. In order to prevent river flow, various culvert structures were installed along the road length. Two bridge structures were installed on the applicant's property.</p> <p>The flood plain of the Uilkraal River on the property exhibits some degree of tidal influence due to the proximity of the river mouth and estuary.</p>
<p>Government Notice No. R. 983 of 4 December 2014  <b>Activity Number: 12</b>  Activity Description: "The development of— dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs—</p> <p>(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; —..."</p>	<p>In addition to the bridge structures constructed in May 2009, the holder also created a diversion channel of approximately 460m in length, to channel water from within the floodplain of the Uilkraal River, to one of the main river channels. This occurred in January 2015.</p>
<p>Government Notice No. R. 983 of 4 December 2014  <b>Activity Number: 17</b>  Activity Description: "Development—</p> <p>(i) in the sea;  (ii) in an estuary;  (iii) within the littoral active zone;  (iv) in front of a development setback; or  (v) if no development setback exists, within a distance of 100 metres inland</p>	<p>In addition to the bridge structures constructed in May 2009, the holder also created a diversion channel of approximately 460m in length, to channel water from within the floodplain of the Uilkraal River, to one of the main river channels. This occurred in January 2015.</p> <p>As noted before, the flood plain of the Uilkraal River on the property exhibits</p>

<p>of the high-water mark of the sea or an estuary, whichever is the greater; in respect of—</p> <p>(a) fixed or floating jetties and slipways;</p> <p>(b) tidal pools;</p> <p>(c) embankments;</p> <p>(d) rock revetments or stabilising structures including stabilising walls; or</p> <p>(e) infrastructure or structures with a development footprint of 50 square metres or more; —..."</p>	<p>some degree of tidal influence due to the proximity of the river mouth and estuary.</p>
<p>Government Notice No. R. 983 of 4 December 2014</p> <p><b>Activity Number: 19</b></p> <p>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;"</p>	<p>In addition to the bridge structures constructed in May 2009, the holder also created a diversion channel of approximately 460m in length, to channel water from within the floodplain of the Uilkraal River, to one of the main river channels. This occurred in January 2015.</p>
<p>Government Notice No. 985 of 4 December 2014 -</p> <p><b>Activity Number: 12</b></p> <p>Activity Description: "The clearance of an area of 300 square metres 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>	<p>The creation of the diversion channel has resulted in the clearing of vegetation. The original vegetation of the area is Agulhas Sand Fynbos which is considered an endangered vegetation type.</p>
<p>Similarly listed in terms of Government Notice No. 985 of 4 December 2014 -</p> <p><b>Activity Number: 14</b></p> <p>Activity Description: "The development of— (i) dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or (ii) infrastructure or structures with a physical footprint of 10 square metres or more; where such development occurs— (a) within a watercourse;..."</p>	<p>As noted above, the flood plain of the Uilkraal River on the property exhibits some degree of tidal influence due to the proximity of the river mouth and estuary.</p>

The abovementioned list is hereinafter referred to as "the listed activities".

#### D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Farm 220, Sandown Estate, Gansbaai.

The SG digit code is: C01100000000022000000

The co-ordinates for the property is:

Point	Latitude (S)	Longitude (E)
1	34° 36' 20.78" South	19° 27' 9.94" East

Refer to Annexure 1: Locality Plan and Annexure 2: Site Plan.

Herein-after referred to as "the site".

#### E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER ("EAP")

Holland and Associates Environmental Consultants

c/o Mr Ross Holland

P.O. Box 31108

TOKAI

7966

Tel: (072) 601 0803

Fax: (086) 653 1765

Email: ross@hollandandassociates.net

#### F. DETAILS OF THE ACTIVITY/IES UNDERTAKEN

The construction of 2 bridge structures and the creation of a diversion channel within a watercourse on Farm 220, Sandown Estate, Gansbaai.

Mystic Pearl 133 (Pty) Ltd ("the applicant") is the registered owner, and corporate entity that conducts farming operations on Farm Sandown Estate No. 220, informally referred to as Duinefontein Game Farm. In 2009, the applicant undertook the construction of two bridge structures across the Uilkraal and Boesman River, respectively. The purpose

of the construction was to elevate the existing road surface, in order to facilitate access to portions of the property that becomes inaccessible during winter, due to the inundation of the road. In January 2015, the applicant undertook the excavation of a diversion channel, in proximity to the second bridge structure. The channel acts as a cut-off drain to divert overland flow from the low lying flood plain area, which features several seeps and springs, into one of the more significant channels on the floodplain.

## **G. CONDITIONS OF AUTHORISATION**

The following are conditions of authorisation that are set and must be implemented for this Environmental Authorisation.

### **PART I**

#### **Scope of authorisation**

1. The holder is authorised to undertake the listed activity/ies specified in Section C above in accordance with the EIR dated 07 April 2016 on the site as described in Section D above.
2. The Environmental Authorisation is valid for a period of **five years** from the date of the decision for continuation of commencement.
3. 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.
4. Any changes to, or deviations from the scope of the alternative described in Section F 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.

## **PART II**

### **Written notice to the competent authority**

5. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of commencement of activities.

5.1 The notice must make clear reference to the site details and 24G Reference number given above.

5.2 The notice must also include proof of compliance with the following condition: Conditions 6, 8 and 11.

## **PART III**

### **Notification and administration of an 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 —

6.1.1 the outcome of the application;

6.1.2 the reasons for the decision as included in Annexure 3;

6.1.3 the date of the decision; and

6.1.4 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 Appeals Regulations, 2014* detailed in Section I 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:

6.4.1 the name of the holder (entity) of this Environmental Authorisation;

6.4.2 name of the responsible person for this Environmental Authorisation;

6.4.3 postal address of the holder;

6.4.4 telephonic and fax details of the holder;

6.4.5 e-mail address, if any, of the holder; and



6.4.6 the 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 *National Appeal Regulations, 2014*.

7. The listed activities, including site preparation, may not commence within 34 (thirty-four) calendar days from the date of issue of this Environmental Authorisation. 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.

#### **PART IV**

##### **Management of the activity/development**

8. The draft Environmental Management Programme ("EMPr") of January 2016 compiled by Holland & Associates Environmental Consultants and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

9. Maintenance of the activities must be undertaken in accordance with the Maintenance Management Plan of November 2015 (Annexure 7 of the EMPr).

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

#### **PART V**

##### **Monitoring**

11. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") before continuation of commencement of activities to ensure compliance with the EMPr and the conditions contained herein.

12. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activities, and must be made available to anyone on request.

13. Access to the site referred to in Section D 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.

## **PART VI**

### **Auditing**

14. In terms of regulation 34 of the *EIA Regulations, 2014* the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr and submit Environmental Audit Reports to the competent authority annually and upon receiving such request in writing from the competent authority. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014*.

## **PART VII**

### **Activity/ Development Specific Conditions**

15. 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 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; and/or graves or unmarked human burials including grave goods and/or associated burial material.

16. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.

## H. 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.
2. Non-compliance with a condition or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not continue, conduct or undertake listed activities within the period referred to in Condition 2 of Section G, this Environmental Authorisation shall lapse for that activity or activities, and a new application for Environmental Authorisation must be submitted to the competent authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment must be made on condition that the environmental authorisation is valid on the date of receipt of such amendment application.

Note that:

(1) In terms of regulation 28(1A) of the *EIA Regulations, 2014* the competent authority shall not accept or process an application for amendment of an environmental authorisation if such environmental authorisation is not valid on the day of receipt of such amendment application, but may consider an application for environmental authorisation for the same development.

(2) In terms of regulation 28(1B) of the *EIA Regulations, 2014* an environmental authorisation which is the subject of an amendment application remains valid pending the finalisation of the amendment application.

(3) It is an offence in terms of section 49A(1)(a) of the 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.

4. The holder must submit an application for amendment of the Environmental Authorisation to the competent authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the *EIA Regulations, 2014* must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the competent authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:

Amendments to the EMPr, must be done in accordance with regulations 35 to 37 of the *EIA Regulations, 2014* or any relevant legislation that may be applicable at the time.

## **I. APPEALS**

Appeals must comply with the provisions contained in the *National Appeal Regulations, 2014*.

1. An appellant (if the holder) must –

1.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator and a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder was notified by the competent authority of this decision.

2. An appellant (if NOT the holder) must –

2.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator, and a copy of the appeal to the holder, any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder notified the registered I&APs of this decision.

3. The holder (if not the appellant), the decision-maker, I&APs and 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. This appeal and responding statement must be submitted to the address listed below:

By post: Attention: Jaap de Villiers  
Western Cape Ministry of Local Government, Environmental Affairs &  
Development Planning  
Private Bag X9186, Cape Town, 8000; or

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Jaap de Villiers (Tel: 021-483 3721)  
Room 809, 8th floor Utilitas Building  
1 Dorp Street, Cape Town, 8000; or

By e-mail: Jaap.DeVilliers@westerncape.gov.za

**Note:** You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator to the address listed above and/ or via e-mail to Jaap.DeVilliers@westerncape.gov.za.

5. A prescribed appeal form, as well as assistance regarding the appeal processes is obtainable from the office of the appeal authority/ at: Tel. (021) 483 3721, E-mail [Jaap.DeVilliers@westerncape.gov.za](mailto:Jaap.DeVilliers@westerncape.gov.za) or URL <http://www.westerncape.gov.za/eadp>.

## J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS

Non-compliance with a condition or term of this Environmental Authorisation or EMPr may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

## K. DISCLAIMER

The Western Cape Government, the Municipality, 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-

