

REFERENCE NUMBER: 14/2/1/3/D2/16/0010/13

ENQUIRIES: Jamie-Lee van Zyl

The Municipal Manager
George Municipality
P. O. Box 19
GEORGE
6530

BY REGISTERED MAIL

Tel: (044) 801 9313

Fax: (086) 529 9872

Email: Lionel@george.org.za

Attention: Mr Lionel Daniels

Dear Sir

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA") FOR THE UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITY: CONSTRUCTION AND INFILLING ACTIVITIES WITHIN 32m OF THE ROOI RIVER, ERF 2143, WESTERN STREET, DORMEHLSDRIFT, GEORGE

With reference to your application dated 11 October 2013 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") (GN No. R.326 of 7 April 2017), the competent authority herewith **grants environmental authorisation** to the applicant for the continuation, conducting or undertaking of the listed activities

specified in Section C below in accordance with Activity Alternatives 1 and 4 as described in the Environmental Impact Report ("EIR") dated 24 March 2017.

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

George Municipality
c/o Mr Lionel Daniels
PO Box 19
GEORGE
6530

Tel: (044) 801 9496
Fax: (086) 534 6625
Email: Lionel@george.org.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 |
|--|---|
| <i>Government Notice No. R.544 of 18 June 2010–</i> Activity Number: 11 Activity Description: The construction of: (i) canals; (ii) channels; | The river works activity commenced in September 2012. The activity undertaken involves the construction of emergency stormwater management measures in the residential area of Dormehlsdrift, George. The section of Western Street |

- (iii) bridges;
- (iv) dams;
- (v) weirs;
- (vi) bulk storm water outlet structures;**
- (vii) marinas;
- (viii) jetties exceeding 50 square metres in size;
- (ix) slipways exceeding 50 square metres in size;
- (x) buildings exceeding 50 square metres in size; or
- (xi) infrastructure or structures covering 50 square metres or more**

where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.

located between De Vos and Jan Smuts Streets is prone to periodic flooding during periods of high rainfall. This results in the inundation of adjacent land and damage to private residential properties.

In an effort to enable water to discharge more quickly to the Rooi River, George Municipality replaced the existing subsurface drains to the river with mitre type drains (two open drains). The channels are between 20–25m long and ± 2 m wide. The drains comprise of excavated open channels with a trapezoid shape base to take runoff out of the road surface and dispose of it directly into the stream channel.

In order to divert the flow of the main channel further away from the eastern bank, a groyne was engineered and comprises of an earth structure made of soil/gravel. The structure is ± 30 m long, ± 4 m wide and has a height of 1.5m. The groyne structure juts out at a westerly angle from the eastern bank.

The physical size of the activity is $\pm 220\text{m}^2$.

The activity is currently incomplete. It is proposed that the flow-side of the structure be armed with rocks to protect against scouring/ erosion.

The George Municipality has advised that that the earthen groyne was a temporary measure to divert stormwater. Therefore, in addition to the implemented activity discussed above, the George Municipality proposes to raise the section of Western Street between Jan Smuts Street and De Vos Street. The raised surface is proposed to be elevated above the river bank level to create a sufficient gradient that will allow the

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|---|--|
| | <p>natural drainage of water away from the built up area. The raised road profile will also help contain the flow from the river to the river bank and prevent it from overtopping into the built environment.</p> |
| <p>Government Notice No. R544 of 18 June 2010– Activity Number: 18 Activity Description: <i>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock or more than 5 cubic metres from:</i> (i) a watercourse; (ii) <i>the sea;</i> (iii) <i>the seashore;</i> (iv) <i>the littoral active zone, an estuary or a distance of 100 metres inland of the high- water mark of the sea or an estuary, whichever distance is the greater-</i> <i>but excluding where such infilling, depositing, dredging, excavation, removal or moving;</i> (a) <i>is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or</i> (b) <i>occurs behind the development setback line.</i></p> | <p>As above.</p> |
| <p>As similarly listed in Government Notice No. R327 of 7 April 2017 - Activity Number: 19 Activity Description: <i>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;</i> <i>but excluding where such infilling, depositing, dredging, excavation,</i></p> | <p>As above. The activity is currently incomplete. It is proposed that the flow-side of the groyne structure be armed with rocks to protect against scouring/ erosion.</p> |

| | |
|--|--|
| <p><i>removal or moving—</i></p> <p><i>(a) will occur behind a development setback;</i></p> <p><i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i></p> <p><i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i></p> <p><i>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour;</i></p> <p><i>or</i></p> <p><i>(e) 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.</i></p> | |
|--|--|

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

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Erf 2143, Western Street, Dormehlsdrift, George.

The SG digit code is: C02700020000214300000

The co-ordinates for the site are:

| Point | Latitude (S) | Longitude (E) |
|-------|----------------------|---------------------|
| 1 | 33° 57' 44.23" South | 22° 26' 49.94" 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")

Sharples Environmental Services cc
c/o Mr Steve Kleinhans /John Sharples
P.O. Box 9087
GEORGE
6530

Tel: (044) 873 4923
Fax: (044) 874 5953
Email: steve@sesc.net

F. DETAILS OF THE ACTIVITY OR ACTIVITIES UNDERTAKEN

The river works activity involves the construction of emergency stormwater management measures in the residential area of Dormehlsdrift, George. The George Municipality replaced the existing subsurface drains to the Rooi River with mitre type drains (two open drains). The channels are between 20–25m long and ± 2 m wide. The drains comprise of excavated open channels with a trapezoid shape base to take runoff out of the road surface and dispose of it directly into the stream channel.

In order to divert the flow of the main channel further away from the eastern bank, a groyne was engineered and comprises of an earth structure made of soil/gravel. The structure is ± 30 m long, ± 4 m wide and has a height of 1.5m. The groyne structure juts out at a westerly angle from the eastern bank.

The physical size of the implemented activity is ± 220 m².

The activity is currently incomplete. It is proposed that the flow-side of the groyne structure be armed with rocks to protect against scouring/ erosion.

Since the implemented activity discussed above was a temporary measure to divert stormwater, the George Municipality proposes to raise the section of Western Street between Jan Smuts Street and De Vos Street. The raised surface is proposed to be elevated above the river bank level to create a sufficient gradient that will allow the

natural drainage of water away from the built up area. The raised road profile will also help contain the flow from the river to the river bank and prevent it from overtopping into the built environment.

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 activities specified in Section C above in accordance with and restricted to Alternatives 1 and 4 described in the EIR dated 24 March 2017 on the site as described in Section D above.
2. The Environmental Authorisation is valid for a period of **ten years** from the date of the decision to continue, conduct or undertake the listed activities as specified in Section C above.
3. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his 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 the listed 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 conditions 6, 7 and 10.

PART III

Notification and administration of an appeal

6. The holder must in writing, within 14 (fourteen) 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 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") compiled by Sharples Environmental Services cc dated 19 August 2014 and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.
9. The EMPr must be included in all contract documentation for all phases of implementation.

PART V

Monitoring

10. The holder must appoint a suitably experienced Environmental Control Officer ("ECO"), before continuation of commencement of construction activities to ensure compliance with the EMPr and the conditions contained herein.
11. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the relevant municipal office of the authorised activities, and must be made available to anyone on request.
12. 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

13. 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 and the EMPr and submit Environmental Audit Reports to

the competent authority upon receiving such request in writing from the competent authority.

- 13.1. The holder must submit an Environmental Audit Report six (6) months after the commencement of the implementation of Alternative 4 (Elevating the road profile of Western Street, George) as described in the EIA report dated 24 March 2017. 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

14. 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.

15. 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.
16. The recommendations made in the Freshwater Impact Assessment of January 2017 compiled by BlueScience (Pty) Ltd must be adhered to.

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. Should an appeal be lodged with the appeal administrator against the Environmental Authorisation, you are hereby advised of the following:

1.1. An appellant (if the applicant) must –

1.1.1. submit an appeal in accordance with regulation 4 of the *National Appeal Regulations, 2014*, to the appeal administrator and a copy of the appeal to the decision maker, any registered I&APs and any organ of state with interest in the matter within 20 (twenty) days from the date that the notification of the decision was sent to the applicant by the competent authority.

1.2. An appellant (if NOT the applicant) must –

1.2.1 submit an appeal in accordance with regulation 4 of the *National Appeal Regulations, 2014*, to the appeal administrator, and a copy of the appeal to the applicant, 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 that the notification of the decision was sent to the registered interested and affected parties by the applicant.

2. The applicant (if not the appellant), the decision-maker, I&APs and organs of state must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) days from the date of receipt of the appeal submission.

3. 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.

4. 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 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-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Yours faithfully



ADV. CHARMAINE MARÉ

DIRECTOR: ENVIRONMENTAL GOVERNANCE

DATE OF DECISION: 20 July 2018

Copied to:

(1) Steve Kleinhans (Sharples Environmental Services cc)

(2) Trevor Botha (George Municipality)

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