

REFERENCE: 16/3/3/6/7/1/D2/11/0292/23
DATE OF ISSUE: 26 October 2023

The Municipal Manager
% The Director: Civil Engineering Services
THE GEORGE MUNICIPALITY
PO Box 19
GEORGE
6530

Attention: Mr. Jannie Koegelenberg

E-mail: jkoegelenberg@george.gov.za

Tel: (044) 801 9278

Dear Sir

ACKNOWLEDGMENT AND COMMENT ON THE NOTICE OF INTENT TO SUBMIT AN APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 FOR THE PROPOSED REPAIR AND REHABILITATION OF FLOOD DAMAGE ALONG THE CAMPHERSDRIFT RIVER IN VAN RIEBEECK PARK, GEORGE

1. The abovementioned Notice of Intent (Ref: 02/CD/GM/08/23) ("NOI") dated 20 September 2023 compiled on your behalf by your appointed registered Environmental Assessment Practitioner ("EAP"), Mr. Michael Bennett (EAPASA No: 2021/3163) and assisted by registered Candidate EAP, Ms. Carla Swanepoel (EAPASA No: 2021/3267) of *Sharples Environmental Services cc* ("SES"), and received by this Department on 28 September 2023, refers.
2. This letter serves as acknowledgement of receipt of the abovementioned report on **28 September 2023**.
3. The Directorate: Development Management (Region 3) ("this Directorate") has reviewed the information in the NOI and provides the following comment:

3.1. *The proposal*

It is understood that the George Municipality experienced damage ranging from minor to extensive on infrastructure within the George Municipal Boundary during the November and December 2021 flood event. The George Municipality applied for and obtained funding to repair the damage caused by the flooding.

It is understood that this proposal entails repairs to erosion / damage along the Camphersdrift River in the Van Riebeeck Gardens. It is understood that the general extent of the scope of works applicable to all areas include:

- refurbish / replace gabion structures;
- reinstatement of erosion protection structures;
- Rehabilitation of eroded areas and implementation of erosion protection structures;
- stabilization of riverbanks and beds and implementation of erosion protection structures;
- reinstatement of retaining walls; and
- reconstruction of stormwater pipes, outlets, headwalls, and associated infrastructure.

Note: The George Municipality has approached the competent authority to issue a directive in terms of Section 31A of the National Environmental Management Act, 1998 to implement emergency works at Site #4 (located at coordinates 3°56'52.16" South and 22°27'27.40" East). It is understood that this site will not form part of the application that will be submitted in terms of the EIA Regulations, 2014 (GN R.982 of 4 December 2014).

3.2. *Process to obtain environmental authorisation*

Based on the information submitted to this Directorate a Basic Assessment process must be followed in order to apply for Environmental Authorisation. Only those activities applied for shall be considered for authorisation. The onus is on the proponent / EAP to ensure that all the applicable listed activities are applied for and assessed as part of the Basic Assessment process.

3.3. *Pre-Application Consultation*

It is noted that the EAP does not intend to request a pre-application consultation meeting. Kindly note that virtual meetings via Microsoft Teams are preferred, should the EAP reconsider the decision.

No information provided, views expressed and /or comments made by officials during the pre-application consultation should in any way be seen as an indication or confirmation:

- that additional information or documents will not be requested;
- of the outcome of the application

3.4. *Public Participation Process*

This Directorate notes the public participation steps as stipulated in the Public Participation Plan ("PP-plan") dated 20 September 2023, compiled by the EAP.

Notwithstanding the fact that an agreement regarding the proposed actions to conduct the public participation process is no longer a requirement, it is noted that the purpose of the PP-plan is to get confirmation on the relevant neighbours which must be included as potential Interested and Affected Parties ("I&APs"). In this regard, this Directorate agrees that the neighbours directly adjacent to the must as a minimum be informed of the proposed flood damage rehabilitation.

Furthermore, it is unclear whether a pre-application process will be followed. Therefore, the EAP is reminded to ensure that Regulation 41 of the Environmental Impact Assessment, 2014 (Government Notice No. R. 982 of 4 December 2014, as amended) is complied with simultaneously during the pre-application phase or application phase (or both).

NOTE: With due consideration of the time period until the December festive period, please be reminded that in accordance with Regulation 3(2) of the EIA Regulations (2014), please be advised that for any action contemplated in the Regulations for which a timeframe is prescribed, that the period from 15 December to 5 January must be excluded from the reckoning of days. However, Regulation 3(3) of the EIA Regulations, 2014 that the applicant must refrain from conducting any public participation process over aforementioned period unless justified by exceptional circumstances, as agreed to by the Competent Authority. Therefore, should the EAP plan to conduct public participation over the festive period, the EAP must approach competent authority prior to conducting the public participation.

3.5. Site Sensitivity Verification Report:

In accordance with the applicable protocols or minimum information requirements, which have been published in the Government Gazette (i.e. Government Gazette No. 43110 of 20 March 2020 and Government Gazette No. 43855 of 30 October 2020) you are required to submit a site sensitivity verification report(s) which confirms or disputes the site sensitivities for each of the themes identified in the Screening Tool Report ("STR"). Furthermore, the report(s) must include a motivation for the exclusion of any of the specialist assessments identified in the STR, which in the opinion of the EAP are not considered relevant or required.

In this regard, this Directorate has reviewed the Site Sensitivity Verification Report ("SSVR") dated 18 September 2023. Please be advised that where a protocol has been published for an identified theme, that the respective specialist reports must adhere to the requirements of the protocol. Where a specific protocol has not been identified for a specialist study, such specialist study must comply with the requirements of Appendix 6 of the Environmental Impact Assessment Regulations, 2014 (as amended).

GENERAL:

Please be advised that a SSVR must adhere to the requirements of the various protocols. In this regard the protocols state that the outcome of the site sensitivity verification must be recorded in the form of a report that, *inter alia*:

- (a) confirms or disputes the current use of the land and the environmental sensitivity as identified by the screening tool, such as new developments or infrastructure, the change in vegetation cover or status etc.; and
- (b) contains a motivation and evidence (e.g. photographs) of either the verified or different use of the land and environmental sensitivity.

In this regard, the SSVR does not confirm or dispute the sensitivities identified in the STR for the various themes. Therefore, the SSVR does not comply with the requirements of the various protocols.

Notwithstanding the above, this Directorate notes that the proposal is for the repair and rehabilitation of damage to existing infrastructure and erosion caused by flooding during

November and December 2021. Therefore, this Directorate provides the following advice in terms of the relevant themes:

● *Agricultural Theme*

The Screening Tool Report ("STR") generated on 25 July 2023 specifies a MEDIUM sensitivity rating in terms of the Agricultural Theme. In terms of the protocol an Agricultural Compliance Statement must be compiled to inform the assessment report. However, no agricultural land will be impacted by the proposed flood damage repairs.

Nonetheless, the EAP must consult the Western Cape Government: Department of Agriculture (DoA) - Land Use Management in the public participation process and specifically obtain written confirmation from said organ of state regarding the delineation of the theme, and necessity for any further studies regarding the Agriculture Theme.

● *Animal Species Themes*

The STR specifies a HIGH sensitivity rating for the Animal Species Theme. The SSVR indicates that a specialist has been appointed to undertake an impact assessment or compliance statement, depending on the findings. In light of the aforementioned, please be advised the depending on the level of assessment that is required in terms of protocol, that the specialist assessment must comply with the content requirements of the applicable report i.e. Compliance Statement or Terrestrial Animal Species Specialist Assessment.

Furthermore, the EAP must consult CapeNature in the public participation process and specifically obtain written confirmation from said organ of state regarding the delineation of the theme, and necessity for any further studies regarding the Animal Species Theme.

● *Aquatic Biodiversity Theme*

The STR specifies a VERY HIGH sensitivity rating for the Aquatic Biodiversity Theme. According to the SSVR an Aquatic Impact Assessment will be undertaken. In light of the sensitivity rating identified by the STR, the specialist assessment must adhere to the requirements for the Aquatic Biodiversity Specialist Assessment as stipulated in the protocol.

● *Archaeological, Cultural Heritage and Palaeontological Themes*

The procedure for site sensitivity verification where no specific assessment protocol has been prescribed, has been gazetted in Government Notice No. 320 of 20 March 2020. However, it is noted that the proposed project does not trigger Section 38 of the National Heritage Resources Act.

● *Civil Aviation Theme*

The proposed site is located within close proximity to the George Municipal emergency airstrip and between 8km and 15km from a major civil aviation aerodrome i.e. Airports Company South Africa: George Airport. Therefore, the STR specifies a HIGH sensitivity rating in terms of the Civil Aviation Theme, which is not disputed in the SSVR. However, the proposal is for the repair and rehabilitation of damage to existing infrastructure and erosion caused by flooding. Therefore, the proposed work is not considered as an obstacle in terms of civil aviation.

Nonetheless, the EAP must consult the South African Civil Aviation Authority ("SACAA") (% Ms. Lizell Stroh at E-mail: Strohl@caa.co.za and / or Tel: (011) 545 1232) in the public participation process and specifically obtain written confirmation from said organ of state

regarding the delineation of the theme, and necessity for any further studies regarding the Civil Aviation Theme.

● *Plant Species Theme*

The STR specifies a MEDIUM sensitivity in terms of the Plant Species Theme. The SSVR indicates that a plant species specialist will be appointed.

Please be advised that where a medium sensitivity rating is applicable to an area, a **Medium Sensitivity Species of Conservation Concern Confirmation** process must be followed to determine the presence or likely presence of the species identified in the STR. The Protocol for this theme requires that, as a minimum, a Terrestrial Plant Species Compliance Statement be undertaken and submitted.

Furthermore, the EAP must consult CapeNature in the public participation process and specifically obtain written confirmation from said organ of state regarding the delineation of the theme, and necessity for any further studies regarding the Animal Species Theme

● *Terrestrial Biodiversity Theme*

The STR indicates that the sensitivity in terms of the Terrestrial Biodiversity Theme is VERY HIGH. According to the SSVR a specialist has been appointed to undertake the Terrestrial Biodiversity and Animal Species assessments. In light of the sensitivity rating of theme, specialist assessment must comply with the content requirements of the Terrestrial Biodiversity Specialist Assessment as stipulated in the protocol.

3.6. Other relevant considerations

● *National Water Act, Act No. 36 of 1998*

Please be advised that the National Environmental Management Laws Amendment Act, Act 2 of 2022 (NEMLAA), came into effect on 30 June 2023. This Act added sub-section 24C(11) to the National Environmental Management Act, Act 107 of 1998, as amended (NEMA) which requires that *“a person who requires an environmental authorisation which also involves an activity that requires a licence or permit in terms of any of the specific environmental management Acts (i.e., NWA), must simultaneously submit those applications to the relevant competent authority or licensing authority, as the case may be, indicating in each application all other licences, authorisations and permits applied for”*.

In light of the above and with due consideration that the proposed activities are taking place within the watercourse, please advise your appointed EAP and / or the consultant responsible for the Water Use Authorisation (“WUA”) process to liaise; and consult with the relevant authority, the Breede-Olifants Catchment Management Agency (“BOCMA”) urgently.

Please be advised that the EIA process and the Water Use Application process must be synchronised. You are reminded that if these processes are not properly aligned, the lack of synchronisation; omission of any reports/information; or delay as a result thereof, may prejudice the success of the application for environmental authorisation.

4. Kindly note that should no further notices, information or documentation be received within 6-months of the date of this letter, your file will be closed for administrative purposes and a new Notice of Intent / enquiry will need to be submitted thereafter.

Please note that the pre-application consultation is an advisory process and does not pre-empt the outcome of any future application which may be submitted to the Department.

No information provided, views expressed and/or comments made by officials during the pre-application consultation should in any way be seen as an indication or confirmation:

- that additional information or documents will not be requested
- of the outcome of the application.

5. Please note that the activity may not commence prior to an Environmental Authorisation being granted by the Department.
6. Kindly quote the above-mentioned reference number in any future correspondence in respect of this matter.
7. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any information received.

Yours faithfully

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HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Ref.: 16/3/3/6/7/1/D2/11/0292/23

Copied to:

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EAP: Mr. Michael Bennett

Candidate EAP: Ms. Carla Swanepoel

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