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ENQUIRIES: Shireen Pullen

DATE OF ISSUE: 30 April 2024

The Director
Department of Infrastructure
Transport Infrastructure Branch
Chief Directorate Road Programme Management
9 Dorp Street
Cape Town
8001

Attention: Ms. M. Hofmeyr

Cell: 0763327758

Email: Melanie.hofmeyr@westerncape.gov.za

Dear Madam

SECTION 30A EMERGENCY DIRECTIVE

EMERGENCY DIRECTIVE IN TERMS OF SECTION 30A (1) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") IN RESPECT OF AN EMERGENCY SITUATION: FLOOD DAMAGE OF DR01639, MOSSEL BAY

I, Zaahir Toefy, Director: Development Management, Department of Environmental Affairs and Development Planning, herewith issues Melanie Hofmeyr of the Department of Infrastructure with this confirmation of the verbal Directive issued on 21 April 2024 with this written Directive in terms of section 30A(1) of the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended)) related to the implementation of the emergency works or interventions for the reinstatement of culvert structures that washed away on the DR01639, Mossel Bay and repairing of to the road layers at localised areas along the gravel road.

DIRECTIVE

I, Zaahir Toefy, in my capacity as Director: Development Management, in the employ of the Western Cape Government: Department of Environmental Affairs and Development Planning and duly delegated, having considered the information submitted by the requester, hereby issue —

Department of Infrastructure

duly represented by Ms. Melanie Hofmeyr in her capacity as

Engineer Specialist

with a written confirmation of a verbal Directive in terms of Section 30A of the National Environmental Management Act (Act No. 107 of 1998) ("NEMA") in order for the Department of Infrastructure to carry out listed activities identified in terms of the NEMA EIA Regulations, 2014 (as amended), related to the

implementation of interventions to address the emergency situation on the DR01639, Mossel Bay, in relation to the reinstatement of culvert structures that washed away on the DR01639 and repairing of to the road layers at localised areas along the gravel road.

Department of Infrastructure, hereinafter referred to as "the Holder" will be the holder of the Directive.

I hereby confirm that you may commence with the proposed emergency measures or interventions, which fall within the ambit of the identified listed activities, subject to the terms and instructions/conditions set out below, namely:

1. Section 30A(1) of the NEMA provides that the Competent Authority may on its own initiative or on written or oral request from a person, direct a person verbally or in writing to carry out a listed or specified activity, without obtaining an Environmental Authorisation contemplated in section 24(2)(a) or (b), in order to prevent or contain an emergency situation or to prevent, contain or mitigate the effects of the emergency situation.

2. Location

The emergency works will take place on the DR01639, Mossel Bay

Coordinates

DR01639			
Start			
Latitude (S)	33°	56'	28.77"S
Longitude (E)	22°	23'	20.73"E
End			
Latitude (S)	33°	55'	29.08"S
Longitude (E)	22°	22'	25.76"E

3. The proposed emergency works fall within the ambit of the following listed activities identified in terms of the NEMA Environmental Impact Assessment Regulations, 2014; namely:

Government Notice No. R. 327- Listing Notice 1

Activity Number: **12**

Activity Description:

The development of—

- (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or
- (ii) infrastructure or structures with a physical footprint of 100 square metres or more where such development occurs—
 - (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—

- (aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;

- (bb) where such development 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 development occurs within an urban area;
- (ee) where such development occurs within existing roads, road reserves or railway line reserves; or
- (ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.

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
- (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.

Activity Number: 27

Activity Description:

The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—

- (i) the undertaking of a linear activity; or
- (ii) maintenance purposes undertaken in accordance with a maintenance management plan.

Activity Number: 48

Activity Description:

The expansion of—

- (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—

- (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—

- (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.

Government Notice No. R. 323- Listing Notice 2

Activity Number: **24**

Activity Description:

The extraction or removal of peat or peat soils, including the disturbance of vegetation or soils in anticipation of the extraction or removal of peat or peat soils, but excluding where such extraction or removal is for the rehabilitation of wetlands in accordance with a maintenance management plan.

Government Notice No. R. 324- Listing Notice 3

Activity Number: **4**

Activity Description:

The development of a road wider than 4 metres with a reserve less than 13,5 metres.

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- i. Areas zoned for use as public open space or equivalent zoning;
- ii. Areas outside urban areas;
 - (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:
 - (aa) Areas zoned for conservation use; or
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.

Activity Number: **12**

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.

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- i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;
- ii. Within critical biodiversity areas identified in bioregional plans;
- iii. Within the littoral active zone or 100 metres inland from 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 or even in urban areas;
- iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or
- 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.

Activity Number: **14**

Activity Description:

The development of—dams or weirs, where

- (i) 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;
- (b) in front of a development setback; or
- (c) if no development setback has been adopted,
within 32 metres of a watercourse, measured from the edge of a watercourse;

excluding the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.

Activity Number: **18**

Activity Description:

The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre.

- i. Areas zoned for use as public open space or equivalent zoning;
- ii. All areas outside urban areas:
 - (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:
 - (aa) Areas zoned for conservation use; or
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.

Activity Number: **23**

Activity Description:

The expansion of—

- (i) dams or weirs where the dam or weir is expanded by 10 square metres or more; or
- (ii) infrastructure or structures where the physical footprint is expanded by 10 square metres or more;

where such expansion occurs—

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- i. Outside urban areas:
 - (aa) A protected area identified in terms of NEMPAA, excluding conservancies;
 - (bb) National Protected Area Expansion Strategy Focus areas;
 - (cc) World Heritage Sites;
 - (dd) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;
 - (ee) Sites or areas listed in terms of an international convention;
 - (ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;
 - (gg) Core areas in biosphere reserves; or
 - (hh) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined.

It must be noted that the listed activities authorised herein are to be undertaken exclusively in response to the emergency situation described above and, in accordance with the conditions set out below. The extent and scope of the work is limited to the description provided in the Section 30A checklist dated 19 April 2024 by Ms. Melanie Hofmeyr from the Department of Infrastructure.

Details of the emergency situation

4. Recent heavy rainfall in the region as resulted in flood damage on the DR01639. The flood caused culverts to wash away on the DR01639 and caused erosion damage to the road layers at localised areas along the gravel road.
5. This was reported to the Department of Infrastructure and a site inspection was undertaken by the Department, which confirmed the damage as reported.
6. It was determined that emergency works need to be undertaken for access, mobility and safety of the road users. The emergency works includes the reinstatement river crossing structure(s) and repairs to the gravel road layers at localised areas, in accordance with WCG standards, clearing of vegetation and eroded material, and the construction of erosion protection within the watercourse.
7. A verbal Directive was requested and granted on 21 April 2024 for the rectification of the emergency situation.
8. The emergency repair work commenced on 21 April 2024 to restore access and safety on the road.
9. This written directive confirms the verbal directive that was granted given on 21 April 2024

Proposed emergency work and protection measures to be implemented

10. The emergency implemented to prevent or contain the emergency situation or to prevent, contain or mitigate the effects of the emergency situation will be implemented in accordance with the following Method Statement:
 - a) Emergency repair work entails repairs to the reinstatement of the culvert and repairs to the gravel road. The scope of works includes the following:
 - Construction of a temporary bypass for local access
 - Excavation of eroded material to a clean face and solid foundation;
 - Demolition and removal of remainder of damaged causeway structure flood debris, and eroded road-embankment and pavement layers;
 - Importing rockfill to create a solid base to on which to construct fill;
 - Construction of replacement culvert structure(s);
 - Reinstatement of the road fill, pavement layers and roadway embankments;
 - Installation of erosion protection works. This includes gabion mattresses and baskets along the river route where required; and
 - Installation of road signage where required.
11. The proposed mitigation measures that will be implemented:
 - a) The Environmental Control Officer (ECO) / Site Agent were to be appointed to oversee the duration of the implementation of the emergency measures.
 - b) The operator of the machinery should ensure that his machine does not leak any fuel or oil prior to driving on the riparian area and no re-fuelling may take place in close proximity of the river.
12. The monitoring and reporting measures must strictly comply with the following:
 - (a) The reporting requirements associated with this Directive are limited to measures or interventions that constitute a listed activity in terms of the NEMA EIA Regulations, 2014 (as amended).
 - (b) The Holder must for the period which the Section 30A Directive remains valid ensure that the compliance with the conditions of the Directive is monitored and reported to the Competent Authority.
 - (c) The emergency works must be done under the supervision of a suitably qualified Environmental Control Officer ("ECO") or Site Agent.
 - (d) The Holder must appoint a suitably experienced Environmental Control Officer or Site Agent for the duration of the project.

- (e) The ECO / Site Agent must–
- be appointed prior to commencement of any land clearing or construction activities commencing;
 - monitor the works and ensure that the implementation is within the scope of this Directive and effect is given to Section 28(1) of NEMA;
 - ensure compliance with the method statement and the conditions contained therein;
 - keep record of all activities on site; problems identified and the mitigative measures; transgressions noted, and a task schedule of tasks undertaken by the Site Agent / ECO;
 - remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is ready for operation;
 - compile and submit compliance report(s) to the Competent Authority.
13. The submission states that the works also requires authorisation in terms of the National Water Act, 1998 (Act No. 36 of 1998). Please note that the proponent must also comply with any other statutory requirements that may be applicable to the undertaking of the activity.
14. Department of Infrastructure: Chief Directorate Roads Programme Management represented by Ms. Melanie Hofmeyr is the responsible party to implement the emergency works.
15. The Holder must prepare and submit a Final Completion Report to the Competent Authority. The final closure / completion report must be submitted to the Competent Authority within 30 calendar days from the date of completion of all measures or interventions implemented to address the emergency situation.

PROCEDURAL ARRANGEMENTS

16. In terms of Section 43 of NEMA a person is entitled to lodge an appeal against this Directive. Such appeal must be lodged in accordance with the Appeal Regulations, 2014 and should be directed to the Appeals Authority.
17. The necessary notices; reports and post-implementation requirements must be submitted to the competent authority within the specified timeframes.
18. Non-compliance with a provision of this Directive is an offence in terms of section 49A(1)(g) and may result in criminal prosecution.
19. On conviction, such non-compliance may result in a fine and / or imprisonment not exceeding R10 million and / or 10 years' imprisonment.
20. You are encouraged to maintain open communication lines with all relevant authorities and must ensure that all stipulated authorities are included in the reporting protocol. The competent authorities will endeavour to assist in such efforts as far as is reasonably possible.

Any queries with regard to the contents of this written Directive may be directed to:

WCG: Department of Environmental Affairs & Development Planning:
Directorate: Development Management (Region 3)
Contact person(s): Mr Zaahir Toefy

Mobile: 083 648 5338
E-mail: Zaahir.Toefy@westerncape.gov.za

15. Notwithstanding this Section 30A Directive, the proponent must comply with any other statutory requirements that may be applicable when undertaking the listed activities.

Yours Faithfully

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT
DATE: 30 APRIL 2024

Copy:

Ms N. Coetzee

EAP

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Mr. A. November

Chief Engineer- Department of Infrastructure

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