



EIA REFERENCE NUMBER: 16/3/3/1/D2/8/0014/24
NEAS REFERENCE NUMBER: WCP/EIA/0001441/2024
DATE OF ISSUE: 29 AUGUST 2024

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: THE PROPOSED REPAIR AND REHABILITATION OF FLOOD DAMAGE IN THE AREAS OF BORCHERDS, PARKDENE, BALLOTSVIEW AND THEMBALETHU (PROJECT 28(1)), GEORGE

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 in respect of **the preferred alternative**, described in the Final Basic Assessment Report ("FBAR") (Ref: GEO24/1252/13), dated 6 June 2024, as prepared and submitted by the appointed environmental assessment practitioner ("EAP"), Ms. Cathy Avierinos (EAPASA No: 2019/1053) of HillLand Environmental cc.

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 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

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

B. LIST OF ACTIVITY/IES AUTHORISED

Listed Activities	Activity/Project Description
Environmental Impact Assessment Regulations Listing Notice 1 of 2014, Government Notice No. 983 of 4 December 2014 (as amended)	
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.	The combined footprint of the proposed new structures and infrastructure associated with the proposed development will exceed 100m² within a watercourse or within 32m of the edge of a watercourse.
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;	The development of the proposed new structures and infrastructure will require the infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand or rock of

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 (a) 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.	more than 10 cubic metres from a watercourse.
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 23 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.	The proposal entails inter alia the expansion of existing structures and infrastructure within 32m of the edge of a watercourse. The combined expansion will exceed 100m².

**Environmental Impact Assessment Regulations Listing Notice 3 of 2014,
Government Notice No. 985 of 4 December 2014 (as amended)**

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.

i. Western Cape

- 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 on erven 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.*

The proposed activities will require the clearance of more than 300m² of indigenous vegetation within a Critically Endangered ecosystem i.e. Garden Route Granite Fynbos and on properties zoned as open space.

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 activities as it relates to the development:

The proposal entails the repair and maintenance of existing stormwater infrastructure in the suburbs of Borchersds, Parkdene, Ballotsview and Thembaletu located in George. The structures were damaged by severe flooding and are being undermined and damaged by storm /flooding events which are now threatening public and municipal services infrastructure and property and must be repaired/rehabilitated accordingly. The general scope of works include *inter alia*:

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

The following sites are subject to this environmental authorisation and will be undertaken in accordance with the following design layout plans drafted by WEC Consult: Consulting Engineers and Project Managers dated April 2024:

- Site 28(1).2 Drawing Number
 - 23-GM-009/SUR106/00
- Site 28(1).69 Drawing Number
 - 23-GM-009/SUR116/00
 - 23-GM-009/SUR117/00
- Site 28(1).77 Drawing Number
 - 23-GM-009/SUR120/00
 - 23-GM-009/SUR121/00

C. SITE DESCRIPTION AND LOCATION

The proposal entails the repairs and maintenance of erosion / damage to stormwater structures and infrastructure in the suburbs of Borchards, Parkdene, Ballotsview and Thembaletu.

Coordinates of the sites:

Site	Latitude (S)			Longitude (E)		
Site 28(1).2	33°	59'	14.24"	22°	28'	06.79"
Site 28(1).69	34°	0'	02.53"	22°	29'	23.84"
Site 28(1).77	33°	59'	55.30"	22°	29'	09.41"

SG digit code for the relevant properties:

Surveyor General 21-digit Code		
Site 28(1).2	Remainder of Erf 13486	C02700020001348600000
Site 28(1).69	Remainder of Erf 1821	C02700100000182100000
Site 28(1).77	Erf 1829	C02700100000182900000

Refer to Annexure 1 for the Locality Plan of this Environmental Authorisation.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

Ms. Cathy Avierinos
 EAPASA NO: 2019/1053
 E-mail: cathy@hilland.co.za

HillLand Environmental (Pty) Ltd
 PO Box 590
 GEORGE
 6530

Tel: 044 889 0229
 E-mail: admin@hilland.co.za
 Web: <https://hilland.co.za/>

E. CONDITIONS OF AUTHORISATION

Scope and Validity Period of authorisation

1. This Environmental Authorisation is granted for the period from date of issue until **31 August 2026** (validity period), during which period the Holder must ensure that the—
 - (a) physical implementation of the authorised listed activities is started with and concluded by 31 August 2026;
 - (b) construction monitoring and reporting requirements are undertaken and submitted to the Competent Authority in time to allow said authority to process such documents timeously;
 - (c) post construction rehabilitation and monitoring requirements is undertaken and completed; and
 - (d) environmental auditing requirements are complied with; and that such auditing is finalised in time to allow the competent authority to be able to process the environmental audits timeously within the specified validity period.

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 respect of the preferred alternative described in the FBAR, dated 6 June 2024, on the site as described in Section C above.

This Environmental Authorisation is for the implementation of **the preferred alternative** which entails:

The proposal entails the repair and maintenance of existing stormwater infrastructure in the suburbs of Borchersds, Parkdene, Ballotsview and Thembaletu in George. The structures were damaged by severe flooding and are being undermined and damaged by storm /flooding events which are now threatening public and municipal services infrastructure and property and must be repaired/rehabilitated accordingly. The general scope of works include *inter alia*:

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

The following sites are subject to this environmental authorisation and will be undertaken in accordance with the following design layout plans drafted by WEC Consult: Consulting Engineers and Project Managers dated April 2024:

- Site 28(1).2 Drawing Number
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- Site 28(1).69 Drawing Number
 - 23-GM-009/SUR116/00
 - 23-GM-009/SUR117/00
- Site 28(1).77 Drawing Number
 - 23-GM-009/SUR120/00
 - 23-GM-009/SUR121/00

3. This Environmental Authorisation may only be implemented in accordance with the 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 –
 - 6.1.1. the decision reached on 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 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:
 - 6.4.1. 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,
 - 6.4.6. 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 holder notifies 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 on site.
 - 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:

Condition no.: 6 and 13

8. Seven calendar days' notice, in writing, must be given to the Competent Authority on completion of the construction activities.

Management of activity/activities

9. The Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is herewith **approved**.
10. The requirements for the avoidance, management, mitigation, monitoring, rehabilitation and reporting of the impacts of the activity on the environment, which have been identified in this Environmental Authorisation additional to those contained in the approved EMPr, must be implemented together with the EMPr.
11. The EMPr must be updated to incorporate all the conditions contained in this Environmental Authorisation and all those measures for the avoidance, management, mitigation, monitoring, rehabilitation and reporting as identified in this Environmental Authorisation additional to those contained in the approved EMPr.

The updated EMPr must be re-submitted to the Competent Authority prior to commencement of the construction activities.

12. The approved EMPr (including the additional measures for the avoidance, management, mitigation, monitoring and reporting identified in the Environmental Authorisation) must be included in all contract documentation for all phases of implementation.

Monitoring

13. The Holder must appoint a suitably experienced Environmental Control Officer ("ECO") for the duration of maintenance activities at each site.
14. The ECO must—
 - 14.1. be appointed prior to commencement of any works;
 - 14.2. ensure compliance with the EMPr and the conditions contained herein;
 - 14.3. keep record of all activities on the site; problems identified; transgressions noted, and a task schedule of tasks undertaken by the ECO;
 - 14.4. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised.
15. 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.
16. 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.

Environmental Auditing

17. The Holder must, for the period during which the environmental authorisation and EMPr remain valid, ensure that compliance with the conditions of the environmental authorisation and the EMPr, is audited.
 18. 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:
 - 18.1. During the development phase (construction activities) the Holder must submit an Environmental Audit Report to the Competent Authority within **three (3) months** of completion of the construction phase.
- Note:** Failure to complete the auditing requirements at least three months prior to expiry of the validity period of the environmental authorisation may result in the Holder not being able to comply with all the environmental auditing and reporting requirements.
19. The Environmental Audit Report, must –
 - 19.1. 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;
 - 19.2. provide verifiable findings, in a structured and systematic manner, on–
 - 19.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
 - 19.2.2. 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.
 - 19.3. identify and assess any new impacts and risks as a result of undertaking the activity;
 - 19.4. evaluate the effectiveness of the EMPr;
 - 19.5. identify shortcomings in the EMPr;
 - 19.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
 - 19.7. 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;
 - 19.8. indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
 - 19.9. include a photographic record of the site applicable to the audit; and
 - 19.10. be informed by the ECO reports.
 20. 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

21. 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 activity.

Amendment of Environmental Authorisation and EMPr

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

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 subject to compliance with all the peremptory conditions (6 and 13). 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.
8. 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.
9. 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;
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision; and

- 1.3. Submit a copy of the appeal to the decision-maker (i.e., the Competent Authority that issued the decision) at:
Zaahir.Toefy@westerncape.gov.za;
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, any registered I&AP, any Organ of State with interest in the matter and the decision-maker i.e., the Competent Authority that issued the decision.
 - 2.3. Submit a copy of the appeal to the decision-maker (i.e., the Competent Authority that issued the decision) at:
Zaahir.Toefy@westerncape.gov.za;
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 8 th 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 <https://www.westerncape.gov.za/eadp/resource-library/forms>.

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

DIRECTOR: DEVELOPMENT MANAGEMENT

WESTERN CAPE GOVERNMENT: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

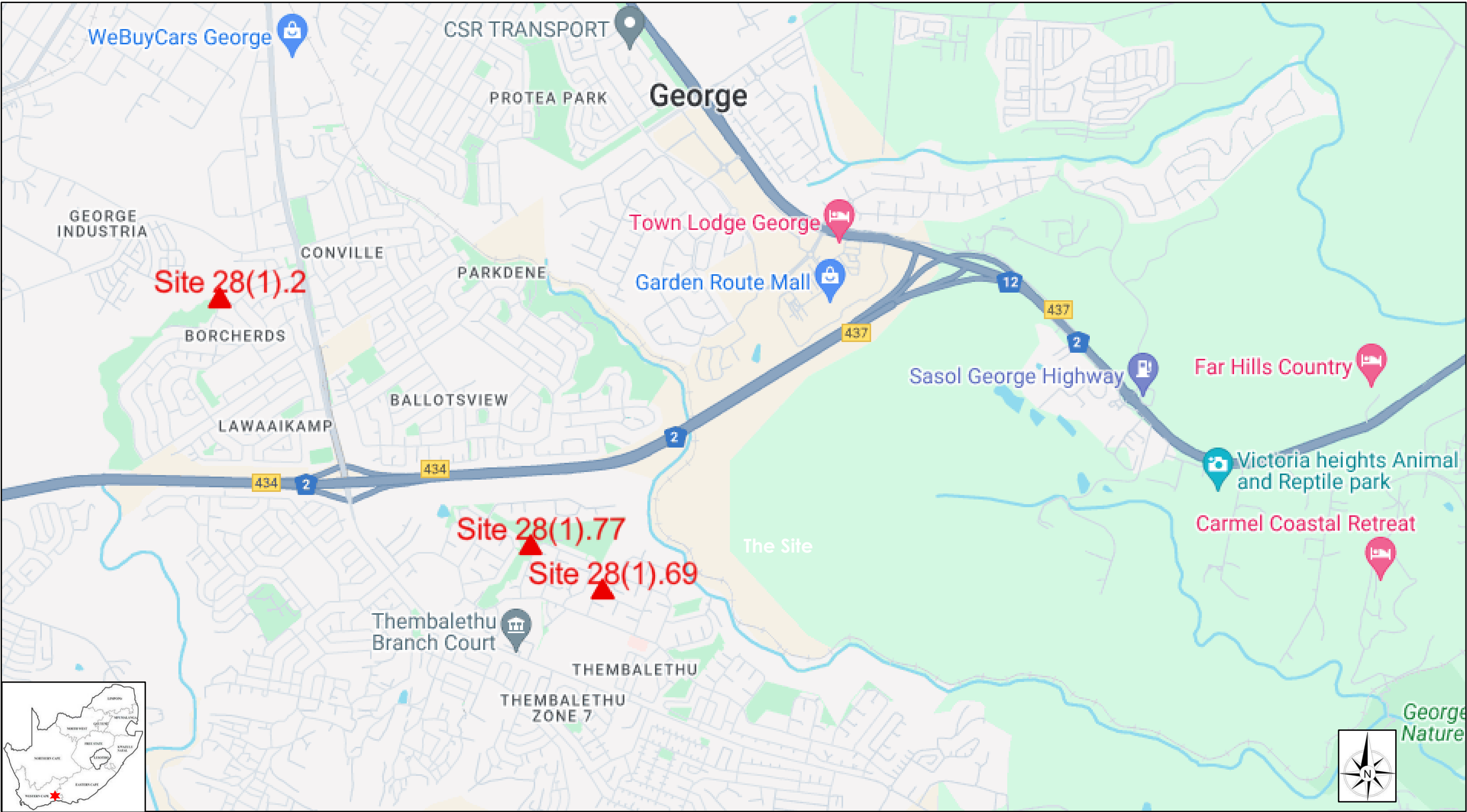
DATE OF DECISION: **29 AUGUST 2024**

FOR OFFICIAL USE ONLY:

EIA REFERENCE NUMBER: 16/3/3/1/D2/8/0014/24

NEAS REFERENCE NUMBER: WCP/EIA/0001441/2024

ANNEXURE 1: LOCALITY MAP



ANNEXURE 3: 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 22 April 2024, the Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 6 June 2024;
- 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 submitted on 6 June 2024;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) Appropriate information was made available in the report to understand the environmental and spatial context.

No site visits were conducted during the course of this application process. The Competent Authority had sufficient information before it to make an informed decision without conducting a site visit.

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. Other relevant legislative considerations

■ *National Water Act, 1998 (Act No. 36 of 1998)*

The proposed upgrades to the requires a Water Use License ("WUL") for water use activities Section 21(c) and (i) of the National Water Act, 1998 (Act 36 of 1998) ("NWA"). In this regard 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 this regard the relevant authority, the Breede-Olifants Catchment Management Agency (BOCMA) has confirmed that the water uses associated with proposed activities can be Generally Authorised in terms of the NWA (Ref: WU36280).

In light of the above, the decision-maker is satisfied that the applicant has adequately complied with the prescripts of the relevant legislation.

2. Public Participation

The public participation process included:

- 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;
- placement of one site notice at each site on 24 April 2024 for the duration of the commenting period;

- 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 25 April 2024;
- the placing of a newspaper advertisement in the "George Herald" on 18 April 2024; and
- making the Draft Basic Assessment Report available to I&APs for public review and comment from 25 April and 27 May 2024. The report was made available on the EAP's website at URL: https://hilland.co.za/public-processes/28_1_bar/.

All the comments and issues raised by the respective *Organs of State and Interested and Affected Parties (I&APs)* that were captured in the Basic Assessment Report were responded to by the EAP. The Competent Authority is satisfied with the responses provided by the EAP to these other organs of state and I&APs.

3. Alternatives

● Preferred alternative (Herewith approved)

The proposal entails the repair and maintenance of existing stormwater infrastructure in the suburbs of Borchers, Parkdene, Ballotsview and Thembaletu in George. The structures were damaged by severe flooding and are being undermined and damaged by storm /flooding events which are now threatening public and municipal services infrastructure and property and must be repaired/rehabilitated accordingly. The general scope of works include *inter alia*:

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

The repairs and maintenance activities proposed are related to existing stormwater structures and infrastructure with the specific purposes to repair flood damage and minimise the risk for future damage during expected storm / flooding events. The engineering designs and solutions are site specific to minimise damage. Therefore, no alternatives have been identified by the applicant.

"No-Go" Alternative

The No-Go alternative entails that the proposed repair and maintenance of existing stormwater infrastructure is not implemented. This will result in an increase of environmental damage and an increased risk to public and municipal property due to future storm / flooding event. Therefore, the No-Go alternative is not the applicant's preferred alternative.

4. Impact Assessment and Mitigation Measures

4.1 Activity need and desirability

According to the applicant the existing stormwater management structures have been and are being undermined and damaged by storm / flooding which are threatening public and municipal services infrastructure and property. In order to prevent any serious damage or risk to infrastructure there is a need for the identified structures to be repaired and maintained.

The applicant indicates that heavy rains and high intensity rainfalls in the George Municipality in November and December 2021, resulted in high stormwater runoff in the entire urban populated area which had a further detrimental effect on outflows and outfall services, especially along the perimeter area of the Borchers, Parkdene, Ballotsview and Thembaletu suburbs. Many of the

stormwater outlet structures, embankment fills and streets were damaged and undermined during the short intense and high-volume stormwater runoff flows. The rainfall data recorded during this period far exceeds the annual average as well as the 1:50 design assumed for the sizing of stormwater structures at these sites. The applicant identified specific sites which required attention ranging from collapse of infrastructure, undermining of the support of the infrastructure (fills embankments) and in some case the infrastructure (outlets, street, pipes, gabions headwalls etc.) have been undermined or destroyed, or in some washed away completely by the heavy stormwater flows. In order to implement the proposed repairs and maintenance, the George Municipality obtained funding from the Municipal Disaster Recover Grant.

In light of the above, the Department is satisfied that the applicant has adequately motivated the need and desirability of the proposed repair and maintenance of existing stormwater infrastructure in the suburbs of Borchers, Parkdene, Ballotsview and Thembaletu in George.

4.2 Aquatic impacts

A description of the aquatic related issues and risks that were identified during the environmental impact assessment process, as well as an assessment of the significance of each issue and risk, cumulative impacts of the proposed development and levels of acceptable change have been considered. In this regard, the impact Basic Assessment Report was informed by an Aquatic Biodiversity Impact Assessment.

- **Site 28(1).2**

According to the assessment the stormwater outlet associated with Site 28(1).2 is located on top of a relatively steep bank that slopes down to the upper reaches of the Schaapkop River. Lack of erosion protection has resulted in severe erosion downstream of the stormwater outlet, leading to the formation of a steeply incised channel leading into the river. The channel is heavily invaded by alien invasive species and heavily polluted by solid waste and general litter.

- **Site 28(1).69**

According to the assessment the eroded section is limited to the steep embankment of a non-perennial stream of the Meul River. The stream has been heavily impacted by stormwater inputs and is characterised by a steeply incised channel, with near vertical banks. The assessment indicates that there are high quantities of solid waste and litter at the stormwater outlet and in the river channel. Furthermore, the water quality is poor and is affected by the excessive quantities of stormwater runoff, illegal dumping, informal agriculture and leaking sewage.

- **Site 28(1).77**

According to the assessment high stormwater input from the surrounding catchment area has led to erosion of the streambed and -banks and has exposed a sewage pipeline crossing the stream. The stream is characterised by a narrow, deeply incised channel and the vegetation in the riparian zone is dominated by alien *Cenchrus clandestinus* (kikuyu) grass and other weedy species.

In light of the above and with due consideration that the proposed repair and maintenance of the stormwater structures and infrastructure relate to existing stormwater outlets, the Department is satisfied that the applicant has adequately demonstrated that the proposed activities will not have significant impacts on the aquatic features subject to the implementation of the proposed mitigation measures and the implementation of the recommendations identified during the process.

4.3 Terrestrial biodiversity aspects

Descriptions of the botanical issues and risks that were identified during the environmental impact assessment process, as well as an assessment of the significance of each issue and risk, cumulative impacts of the proposed development and levels of acceptable change have been considered.

The BAR was informed by a Terrestrial Biodiversity Compliance Statement. According to the information and relevant GIS data the ecosystem has been mapped as Garden Route Granite Fynbos, which according to the Revised National List of Ecosystems that are threatened and in need of protection (Government Notice No. 2747 of 18 November 2022) has a conservation status of Critically Endangered.

However, according to the compliance statement the vegetation at the sites have been significantly transformed and that Garden Route Granite Fynbos vegetation is not present at any of the sites. Furthermore, the vegetation at each of the sites are dominated by alien invasive species and that dumping of solid waste, and little was prolific. No species of conservation concern were recorded at any of the sites.

With due consideration of the above, this Department is of the considered opinion that the applicant has adequately addressed the terrestrial biodiversity related aspects and that the proposed repair and maintenance of the stormwater structures and infrastructure related to existing stormwater outlets will not have a significant impact on the terrestrial biodiversity.

4.4 Heritage / Archaeological Aspects

No significant impacts on heritage / archaeological resources are expected as a result of the proposed repair and maintenance of the stormwater structures and infrastructure relate to existing stormwater outlets. Heritage Western Cape ("HWC"), confirmed that the proposed interventions will not require an application to HWC. 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 with regard to the proposed development have been taken into account.

4.5 Maintenance Management Plan

The applicant has compiled a separate Maintenance Management Plan ("MMP") (Ref: 16/3/3/6/3/D2/8/0112/24) which defines and adopts the proposed maintenance activities for the sites included in this environmental authorisation as well as sites identified by the applicant, which could be considered by means of an MMP. The MMP was subject to public participation and was adopted by the Competent Authority on 11 June 2024.

4.6 Other impacts

No other significant visual dust, noise and odour impacts have been identified.

5. Scope and Validity of the Environmental Authorisation

This environmental authorisation does not define specific operational aspects. The environmental authorisation's validity period has been granted for a period of ca. two (2) years, during which period the construction activities must commence and be concluded, including the post-construction rehabilitation and monitoring and submission of the final environmental audit reports for the construction phase. 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.

6. 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.

7. Conclusion

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, except for the activity that has been refused, 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.

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