



REFERENCE: 16/3/3/6/3/D2/20/0342/23
DATE OF ISSUE: 30 January 2024

THE CHAIRMAN
1 ON YORK DEVELOPMENT
PROPERTY OWNERS ASSOCIATION
P.O. Box 25131
LANGENHOVEN PARK
BLOEMFONTEIN
9330

Attention: Mr. P. Kotze

Cel: 082 556 5174

E-mail: pieter@qs3group.co.za

Dear Sir,

ADOPTION & DEFINITION OF A MAINTENANCE MANAGEMENT PLAN IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): REHABILITATION PLAN FOR 1ONYORK DEVELOPMENT ADOPT-A-SPOT SITE ON MUNICIPAL PROPERTY: REMAINDER ERF 464, GEORGE

The Final Maintenance Management Plan (MMP) for a portion of RE/464 located west of the 1 on York residential development in George, received by this Department ("the competent authority") on 6 December 2023 has reference, find below the outcome with respect to this request:

A. DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), the Environmental Impact Assessment Regulations, 2014, (as amended), the Competent Authority hereby **adopts** and **defines** the abovementioned Final Maintenance Management Plan ("MMP"), prepared by the Cape-EAPrac.

The purpose of the MMP is provide for the removal of waste materials, managing and eradication of invasive alien vegetation and G7 gravel piles from the site (open space area within 32 metres from a watercourse), and improving disturbed areas through the placement and shaping of topsoil and revegetation with indigenous plants.

The adoption/defining of the MMP is subject to the conditions and the aspects which are defined by the competent authority set out in Section D below.

B. DETAILS OF THE HOLDER

The Chairman
Property Owners' Association: 1 on York Development
% Mr. P. Kotze
P.O. box 25131
Langenhoven Park
BLOEMFONTEIN
9330

Cel: 082 556 5174
E-mail: pieter@qs3group.co.za

The abovementioned juristic person is the holder of the Environmental Maintenance Management Plan and is hereinafter referred to as "**the Holder**".

C. SITE DESCRIPTION AND LOCATION

The property is located along the banks of the Camfersdrift River in George. Access to the site is obtained via an existing (although somewhat overgrown) track on RE/Erf 464.

The relevant GPS coordinates for specific areas requiring removal of rubble are:

Point	Latitude (S)			Longitude (E)		
Northern stormwater outlet	33°	58'	33.14"	22°	26'	21.45"
Southern stormwater outlet	33°	58'	35.89"	22°	26'	21.07"
Soil Mound	33°	58'	34.24"	22°	26'	17.11"
Rubble Dump 1	33°	58'	35.14"	22°	26'	20.48"
Rubble Dump 2	33°	58'	36.11"	22°	26'	19.80"
Rubble Dump 3	33°	58'	37.51"	22°	26'	19.17"
G7 Stockpile 1	33°	58'	33.65"	22°	26'	19.97"
G7 Stockpile 2	33°	58'	34.49"	22°	26'	17.57"

Refer to Annexure 1 for the Locality Map.
The above is hereinafter referred to as "**the site**".

D. REQUIREMENTS OF ADOPTING / DEFINING THE MMP:

1. The Holder must confirm acceptance of the conditions of this decision in writing, within **14 (fourteen) calendar days** of the date of the decision, failing which the decision to adopt the MMP is suspended until such time that the conditions are accepted.

Scope of the Environmental Maintenance Management Plan

2. The purpose of the MMP is provide for the removal of waste materials, managing and eradication of invasive alien vegetation and G7 gravel piles from the site (open space area within 32 metres from a watercourse), and improving disturbed areas through the placement and shaping of topsoil and revegetation with indigenous plants. The

maintenance activities are limited to the actions described in the Final Maintenance Management Plan ("MMP") received from the Cape-EA Prac on 6 December 2023.

3. The implementation of the MMP is granted for a period of five (5) years from date of decision until **31 January 2029**.

Management and monitoring of activity

4. The Holder shall be responsible for ensuring compliance with the MMP and conditions, by any person acting on its behalf, including but not limited to, an agent, sub-contractor, employee, or any person rendering a service to the Holder.
5. The Holder must appoint a suitably experienced Environmental Control Officer ("ECO") or Site Agent for the duration of each maintenance project during the validity period.
6. The ECO / Site Agent must—
 - 6.1. be appointed before commencement of any maintenance activities;
 - 6.2. be on site for the duration of the works to monitor and provide guidance relating to the conditions of this MMP;
 - 6.3. ensure that the mitigation measures and recommendations referred to in the MMP are implemented, and where such measures are not implemented that it is recorded and reported to the Competent Authority;
 - 6.4. conduct the necessary monitoring;
 - 6.5. collect photographic material demonstrating the before-, during- and post-maintenance activities; and
7. A copy of this decision and the adopted MMP must be kept at the site when the construction / maintenance activities will be undertaken. The aforesaid documents must be produced to any authorised official of the Department who requests to see the documents and such documents must be made available for inspection by any employee or agent of the Holder who works or undertakes work at the site.

Written notices to the Competent Authority

8. The Holder must, for the period during which the MMP remains valid, give written notice to the Competent Authority (for attention the Directorate: Development Management Region 3) of the implementation of the maintenance activities or each subsequent maintenance project.

Such notice(s) must—

- 8.1. be given to the Competent Authority within seven days prior to the commencement of any maintenance activities of the site (i.e., for each maintenance project) during the period that the MMP is valid;
- 8.2. provide the date of commencement of the maintenance activities on the site;
- 8.3. make clear reference to the reference number given above; and

- 8.4. provide proof of compliance with the requirement to appoint an ECO and provide the details of the ECO.
9. The Holder's written notice must be submitted to the Competent Authority prior to the commencement of the maintenance activities and prior to each subsequent maintenance project.

Environmental Auditing

10. The Holder must, for the period during which the MMP remains valid ensure that the compliance with the MMP and the conditions thereof, is audited.

Note: The Holder must ensure 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.

11. The frequency of auditing of compliance with the conditions of the MMP, must adhere to the following programme:

- 11.1. The holder must undertake environmental audit(s) for each maintenance project (each phase) and submit these Environmental Audit Report(s) to the Competent Authority within **30 days** after completing each maintenance project.

- 11.2. A final Environmental Audit Report for the MMP must be submitted to the Competent Authority at least three (3) months prior to the validity period of the MMP lapsing; **or** within 30-days of completion of the final maintenance project, whichever date will occur first.

Note: This Directorate may require remedial action should the audit report reflect that rehabilitation is inadequate.

12. The Environmental Audit Report(s) must be prepared by the appointed ECO and detail the following:

- 12.1. indicate the date on which the maintenance/repair work was completed;

- 12.2. detail compliance with the MMP and the conditions of this decision;

- 12.3. include a photographic record of the completed site;

Notification and administration of appeal

13. The Holder must, in writing, within 14 (fourteen) calendar days from the date of the Department's decision –

- 13.1. notify all registered interested and affected parties registered in the public participation process of –

- 13.1.1. the outcome of the application;

- 13.1.2. the reasons for the decision;

- 13.1.3. the date of the decision; and

- 13.1.4. the date of issue of the decision;

- 13.2. draw the attention of all registered interested and affected parties to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, 2014 (as amended) as detailed below;

E. GENERAL MATTERS

Appeals

1. An appeal may be lodged against the decision in terms of the National Appeals Regulations, 2014 (as amended) as detailed below.

In the event that an appeal is lodged with the Appeal Authority, the effect of this MMP may be suspended until the appeal is decided i.e., the listed activities, including site preparation, must not commence and/or continue until the appeal is decided.

2. 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–

- 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 any registered I&APs including any Organ of State with interest in the matter; and
- 2.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:

Danie.Swanepoel@westerncape.gov.za;

Gavin.Benjamin@westerncape.gov.za and copied to:

DEADPEIAadmin.George@westerncape.gov.za

3. 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–

- 3.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
- 3.2. Submit a copy of the appeal to the holder of the decision and any registered I&AP including any Organ of State with an interest in the matter; and
- 3.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:

Danie.Swanepoel@westerncape.gov.za;

Gavin.Benjamin@westerncape.gov.za and copied to:

DEADPEIAadmin.George@westerncape.gov.za

4. 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.

5. 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
8th 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.

6. 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 <http://www.westerncape.gov.za/eadp>.

Amendment, Suspension or Withdrawal of Maintenance Management Plan

7. The Holder may submit a written request to the Competent Authority for an extension of the validity period of the MMP prior to the validity period lapsing. Such a request must contain a review of the MMP in terms of the need and desirability of such an extension and the objectives contained in the MMP. The review must make recommendations on possible amendments to the MMP or give reasons for maintaining the status quo.
8. Any changes to, or deviations from, the project description or maintenance activities set out in the adopted MMP must be approved in writing, by this Department, before effect may be given to such changes or deviations. In assessing whether to grant such approval or not, the Department may request such information as it deems necessary 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 regulations pertaining to environmental impact assessments under sections of the National Environmental Management Act, 1998 (Act No. 107 of 1998).

Any erection/construction of new structures or the expansion of an existing structure or infrastructure, which constitutes any other activity listed in the NEMA Listing Notices (currently Government Notice R.983; R.984 or R.985 of 4 December 2014, as amended) may require environmental authorisation. This must first be confirmed with the competent authority.

9. This Department reserves the right to –

- revise the adopted MMP or its initial comments; or
 - define further measures to be incorporated into the MMP,
- based on any new or revised information received and to request further information from the Holder where necessary.

10. This Department may suspend or withdraw the MMP based on any non-compliance with the MMP or a condition as defined in this decision.

Compliance with MMP and Offences

11. Non-compliance with this MMP or a condition thereof, may be considered an offence in terms of Section 49A(1)(e) and/or 49A(1)(f) of the National Environmental Management Act, 1998 (Act no. 107 of 1998, as amended) ("NEMA").

12. In the event that the MMP 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.

13. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

14. Notwithstanding the adoption of the MMP, the Holder must still comply with any other statutory requirements that may be applicable to the maintenance activities.

F. REASON(S) FOR DECISION

In reaching its decision, the competent authority, *inter alia*, considered the following:

- The information contained in the Final Maintenance Management Plan ("MMP") that was received from the Cape-EA Prac on 6 December 2023;
- The public participation process followed, and comments received from interested and affected parties;
- The sense of balance of the negative and positive impacts and proposed mitigation measures;
- 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); *and*
- The MMP is adopted/defined in terms of the provisions of—

ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS LISTING NOTICE 1 OF 2014 (GN No. R. 983 of 4 December 2014, as amended)

Activity 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 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.

ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS LISTING NOTICE 3 OF 2014 (GN No. R. 983 of 4 December 2014, as amended)

Activity 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.

Whereas—

“maintenance” means actions performed to keep a structure or system functioning or in service on the same location, capacity and footprint.

“maintenance management plan” means a management plan for maintenance purposes defined or adopted by the competent authority

- f) 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.

In view of the above, the NEMA principles, compliance with the conditions stipulated in the adopted MMP, and compliance with the MMP, the competent authority is satisfied that the proposed 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 proposed activities can be mitigated to acceptable levels.

G. DISCLAIMER

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the adopted MMP 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.

Notwithstanding the adoption of this MMP, the Holder must still comply with any other statutory requirements that may be applicable to the undertaking of the maintenance activity.

Your interest in the future of our environment is appreciated.

Yours faithfully

ACTING DIRECTOR: DEVELOPMENT MANAGEMENT
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: 30 January 2024

Copied to: **CapeEAPrac (Pty) Ltd.**
% Ms. Siân Holder
Email: sian@cape-eaprac.co.za

ANNEXURE 1: LOCALITY MAP

