

APPEAL FORM IN TERMS OF THE NEMA EIA REGULATIONS

(A digital copy of this form may be obtained from the Department's website at <http://www.capegateway.gov.za/eadp>).

Please address your completed appeal to:

**Provincial Minister for Environment, Planning and Economic Development
Private Bag X9186
CAPE TOWN
8000**

Fax: (021) 483-6081

NOTE:

1. Appeals not submitted to the above address will not be regarded as valid;
2. Information requested must be provided in the spaces allocated therefore. Additional pages may be attached if the allocated space is insufficient;
3. Your appeal submission should be brief, clearly explained and to the point;
4. A copy of your Notice of Intention to Appeal must be attached to this document when submitted to the Department; and
5. This form must be duly signed by the appellant and witnessed.

A. PROJECT INFORMATION

DEA&DP Reference Number: EG12/2/3/1-D2/11-958/08

Project Description: Remedial work along the entire Katrivier, George

Date of issue of the Decision: 18/11/ 2008

Type of Appeal (please circle the appropriate options):

Environmental Authorisation	Refusal	Disqualification of EAP	Amendment	Withdrawal	Exemption
--------------------------------	---------	-------------------------	-----------	------------	-----------

B. APPELLANT'S INFORMATION

I as the appellant am: (Please tick the appropriate box below)

the applicant	a registered interested and affected party ✓	other (please specify)
---------------	---	------------------------

Name: Friends of the Katrivier

Address: 5 Vogelsteeg

Fernridge

George

Tel: 044 8744474

Cell:

Fax: 086 564 6327

Email: info@katrivier.org.za

C. APPEAL NOTICE INFORMATION:

- Please indicate the date you were notified of the Department's decision.
19/11/2008
- Are you a registered Interested & Affected Party (I&AP) or the applicant?
I &AP
- Have you lodged a Notice of Intention to Appeal within 10 days of being notified of the decision taken by the Department? **Yes** / **No**
- Please indicate the date your Notice of Intention to Appeal was lodged with the MEC.
27 November 2008

5. Has this Notice of Intention to appeal been served on the Applicant/ all Registered I&AP's? Yes
6. Please indicate the dates on which this was done. 27 November 2008
7. Did the Notice indicate where and for what period the appeal submission will be available for inspection? Yes / No
8. Please indicate where and for what period the appeal submission has been made available for inspection./ Explain why this was not done.

The appeal submission will be available at www.katrivier.org.za and in the George Library from the 27th December 2008 to the 27th January 2009.

9. Has the relevant application fee been paid? (please attach proof of payment)
Not applicable.

D. GROUNDS FOR APPEAL

10. Provide a statement setting out the grounds of your appeal.
- A. *The Applicants Public Participation regulations were not adequately fulfilled. We requested a public participation meeting and were not granted one.*
- B. *Two separate applications running concurrently over the same section of river have been submitted and authorized contrary to NEMA regulations.*
- C. *The environmental impact and long term affects of almost a Kilometer of gabions on the local Nature Reserve (registered with Cape Nature and established on the 10th October 1989 PN 768/1989 and PN 240/1992 established on 15th May 1992), has not been considered. This Nature Reserve makes up 60% of the length of the Kat River and is threatened by the project and should be protected by legislation.*
- D. *The cause of erosion has not been addressed prior to providing preventative measures. This therefore can not be seen as a long term measure. For example no consideration is given to the inadequate size of the bridges causing major erosion.*

E. *The urgency of this application can not be considered, given the neglect to clear the blockages in the river path which cause water turbulence and erosion.*

11. Is your appeal based on factors associated with the process that was followed by the applicant/the Department in obtaining/issuing authorization or/ refusal or/ amendment or /withdrawal or/ disqualification?

☒ **Yes** / **No** (Circle the appropriate response). Please provide details.

A. *Yes. Public Participation regulations were not fulfilled as the local newspaper advert on 22nd May contravenes the Copyright Act of 1978 which states that reproductions be “clearly visible, legible and comprehensible to a casual observer” “the type size no smaller than that used predominantly throughout the form, and in no case shall the type size be smaller than 8 points.” The legal notice requesting public participation in the George Herald does not conform to these guidelines (See **Addendum A**) the font size is illegible to a casual observer.*

B. *Both this application Ref.EG12/2/3/1-D2/11-958/08 and Ref. EG12/2/3/1-D2/11-911/08 application have been applied for and authorized this year. Both applications contravene the NEMA act which states:*

APPLICATIONS FOR ENVIRONMENTAL AUTHORISATIONS

Combination of applications

15. (1) If an applicant intends undertaking two or more activities as part of the same development, a single application on one application form must be submitted in respect of all those activities.

and

(3) If the competent authority grants permission in terms of subregulation (2), the application must be dealt with as a consolidated process in respect of all the activities covered by the application, but the potential environmental impacts of each activity must be considered in terms of the location where the activity is to be undertaken.

There is too a duplication on the length of river from Adderley Street to Charlote Street first to build a canal and on this same section to install gabions and do repairs. Both these activities are on two different applications that have been approved.

12. Is your appeal based on factors associated with matters of unacceptable environmental impacts/extenuating circumstances not taken into account by the competent authority?

☒ **Yes** / ☐ **No** / ☐ **Not applicable** (Circle the appropriate response). Please provide details.

- C. YES. *The cause of erosion has not been addressed nor has the adverse long term cumulative impact on the entire Kat River been adequately considered. It was **not** considered that more than 60 percent of the Katrivier is protected by a Proclaimed Local Authority Nature Reserve registered with the Western Cape Nature Conservation Board. (See **Addendum B**) The importance of the protected Nature Reserve has not been stressed yet the National Water Act No. 36 of 1998 (NWA) has ascribed equal status to aquatic ecosystem integrity and to the requirements of basic human needs.*

13. Have your appeal issues been raised previously in the public participation process?

☒ **Yes** / ☐ **No** (Circle the appropriate response). Please provide details.

*Yes . We requested a public meeting but were never given the opportunity of having one.(See my request letter: **Addendum D**).We too requested that a larger advert be placed in the newspaper which was not done either.(**Addendum C**)We pointed out the inaccuracies in the plans and were told by the environmental practitioner that they worked off engineering drawings and were not on site!*

14. Are you fundamentally opposed to any development activity on the site?

Yes / ☒ **No** / ☐ **Not applicable** (Circle the appropriate response). Please provide details.

- D. *No. The cause of the erosion in the different sections of river has not been fully identified. Today the changed weather patterns have broadened the entire river (See **Addendum G** showing the river running through indigenous forest which has broadened naturally to accommodate the increased flow of water due to changed weather patterns.)The broadening has caused scouring of the river*

banks but in a Nature Reserve to protect with gabions is not aesthetically pleasing or a long term measure. Can we not rather help the river adjust to its new dimensions by planting riparian vegetation? Large trees act as natural gabions holding soil in place and every year increasing their effectiveness. Gabions have to be regularly maintained and as the Nature Reserve is difficult to access it will probably not be done. We have a large tree nursery in Sedgefield which supplies large indigenous trees they are probably cheaper than gabions. Gabions have to be dug into the river banks and the rich river soil is removed and sold. This is the rivers asset that can not be replaced. In the upper reaches a wetland area has had draining trenches dug toward the river and bank erosion has occurred at these points due to the bank remaining moist and soft. Instead of placing gabions here it would be easier and less detrimental to the river to fill in the trenches to prevent further erosion.

E. Furthermore the blockages of debris and service lines in the river path upstream of each bridge illustrate the dangers in the event of heavy rainfalls.

15. Are you in favour of the decision of the Department if your concerns can be remedied by rectifying the process or by mitigating or eliminating the impacts of the activity?

Yes / **No / Not applicable** (Circle the appropriate response)

16. Please indicate what measures you propose to have your concerns remedied.

Yes.

- A. In terms of the defective public participation process we request an independent environmental consultant do a public participation process.*
- B. We request that an audit be carried out as there is duplicate work being applied for over the section from Adderley Street to Charlotte Street.*
- C. The Friends of the Katrivier have written to the George Municipal Manager requesting an Environmental Management Plan be implemented for the Katrivier Nature Reserve. This will assess the health of the aquatic ecosystem and its biodiversity so that we can keep intact the biodiversity in this*

protected corridor to prevent fragmentation and detrimental effects. A holistic study to determine how the project will affect the river both up and down stream (Hydraulic analysis) be conducted. Map the existing infrastructure to allow some bank stabilization in occupied areas and not in areas with no structures. Delineate the channel migration zone mapping the erosion risk areas using the finest scale possible.

- D. The cause of erosion be identified before preventative gabions be installed. That wider bridges with integrated service lines be considered.*
- E. The debris left in the river path be cleared.*

17. Does your appeal contain any new information that was not submitted to the Environmental Assessment Practitioner (EAP) /or registered I&AP's/ or the Department prior to the Department's decision?

Yes

/ **No** (Circle the appropriate response)

If the answer above is "Yes" please explain what this information is and why it should be considered by the MEC and why it was not made available to the EAP/ or I&AP/ or the Department prior to the decision. (Please ensure that the new information is attached hereto.)

Yes, It was not considered that: a) the three bridges over the river have been a major cause of erosion.

b) Draining of a wetland (a listed activity) has been the cause of bank erosion in the upper reaches of the river.

c)Road runoff must be slowed down before entering the river by means of a swale to combat erosion.

Nor has the Nature Reserve been considered. An Environmental Management Plan has not been done prior to modifying the river significantly through a nature reserve.

18. Please clearly list your appeal issues.

- A. *Public Participation was hampered by concealing the advert in the Newspaper and neglecting to call a public meeting.*
- B. *Two applications have been applied for and received authorization on the same section of river.(See **Addendum E and Addendum F**)*
- C. *The authorization of the activity was passed as it “will have minimal localized environmental impact.” Yet the impact is significant as it is in a protected Nature Reserve. No Environmental Management Plan has been done prior to altering the river channel.*
- D. *The bridges and service lines are a significant contributor to erosion and should be upgraded.*
- E. *Blockages in the river path are a flood risk and cause unnecessary erosion. Trenches draining a wetland cause unnecessary erosion. Badly planned road run off is causing unnecessary erosion.*

19. Please provide an explanation of why you listed each issue in section 18 above.

- A. *Few people are aware of this application, particularly as it runs through a nature reserve that should be protected by legislation or the local authority.*
- B. *We request that an audit be done on both these applications as duplication has occurred from Adderley Street to Charlotte Street.*
- C. *A request from the Department of Agriculture has been put forward to our group to ask the George Municipal Manager to provide someone to do an Environmental Management Plan for the Kat River. Dr Steve Du Toit of WESSA has advised that an Environmental Management Plan on the entire river be done to protect it from haphazard work that has long term detrimental affects. At a meeting with the Environmental Practitioners and George Municipality he recommended a Geo hydrologist be consulted to determine the affect of this project and help predict problems in order to prevent further knock on erosion problems.*
- D. *Building larger bridges is favorable to the river health because it will reduce erosion. Sewerage or water pipes crossing in the river path is unwise.*

E. *The authorization of this project was passed as an "emergency long term measure" yet the blockages left in the river path show no genuine concern of imminent danger of flooding nor has a long term study been done on this activities affect.*

20. Please provide details of how you will be or have been affected by each issue listed under 18 above.

A&B. *We requested a public meeting which was not forth coming. We asked for the news paper advertisement to be rerun in a larger font size which was not done.*

C. *The environment in the Basic Assessment Report is referred to as "largely confined to suburban areas" which is misleading as a Nature Reserve runs along much of the river with indigenous forest. The Nature Reserve will be detrimentally affected by gabions which need constant repair and cause erosion and flooding if they collapse into the river path*

D&E. *The River typography has changed with steep banks eroded just below each bridge and around blockages at drainage trenches and from road runoff. Human infrastructure and debris left in the river path have caused most erosion and by clearing and upgrading we can prevent putting in gabions.*

Appellant's Signature

Place

Date

Witness

Place

Date