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SPECIFIC FEE REFERENCE: G-BA-EIA-K22
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The Managing Director
Pacaltspropdev (Pty) Ltd
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COMMENT ON THE NOTICE OF INTENT (NOI) TO APPLY FOR THE PROPOSED DEVELOPMENT OF A FILLING STATION WITH ASSOCIATED INFRASTRUCTURE ON ERF 7379 IN PACALTSDORP, GEORGE

1. The abovementioned document, compiled by the appointed Environmental Assessment Practitioner, Ms. Louise-Mari van Zyl (EAPASA No: 2019/1444), and assisted by Candidate Environmental Assessment Practitioner ("Candidate EAP"), Mr. Francois Byleveld (EAPASA No: 2023/6770) of Cape Environmental Assessment Practitioners (Pty) Ltd. ('Cape EAPrac'), and received by this Department on 23 July 2024 refers.
2. It is understood that the proposal will entails the development of a filling station with associated infrastructure on Erf 7379, Pacaltsdorp. The filling station will have a total development footprint of approximately 4663 square metres which will consists of the following:
 - A fuel filling station with underground storage tanks that will have a combined storage capacity of less than 80 cubic metres.
 - The filling station will have four (4) islands where the pumps will be situated.
 - Commercial facilities i., anchor and line shops, bathroom and parking bays.
 - The development will be fitted with dedicated sumps underneath the forecourt area that will be fitted with oil traps / separators.
 - Water supply will be connected to the Municipal network.
3. The following advice or instructions of the nature and extent of any of the processes that may or must be followed or decision support tools that must be used, in order to comply with

the Act and the Environmental Impact Assessment Regulations, 2014, as amended is provided below.

3.1. *Environmental Impact Assessment Process*

Based on the listed activities which will be triggered, for which written Environmental Authorisation is required, a **Basic Assessment process** must be followed in order to apply for Environmental Authorisation.

3.2. *Specific fee reference number*

The Department notes your "Request for a specific fee reference number". The following specific fee reference number **G-BA-EIA-K22** must be inserted into the Application Form and proof of payment of the application fee attached when the Application Form is submitted to the Department.

3.3. *National Web Based Environmental Screening Tool Report*

This Directorate notes the National Web Based Environmental Screening Tool Report that has been attached to the Notice of Intent. In accordance with Regulation 16(1)(b)(v) the report must also be attached to the application for environmental authorisation.

The findings of the screening tool report and your site verification report are noted.

3.4. *In light of the protocols, the screening tool, and the site verification report, please note the following:*

● Agricultural Theme

The agricultural theme is rated as "**high sensitivity**" for approximately half of the site and "medium sensitivity" for the remainder. According to protocol, an agricultural theme that results in a high sensitivity requires an Agriculture Agro-Ecosystem Specialist Assessment report which must be by a soil scientist that is registered with the South African Council for Natural Scientific Professions ("SACNASP") ^[1]. This Directorate notes the EAP's opinion which states that the sensitivity rating is refuted, and the EAP is of the opinion that the Agriculture Theme sensitivity is not relevant. However, the lowest possible rating is "**low**" according to the protocol which requires an **Agricultural Compliance Statement** to be done and submitted with the Basic Assessment report. Please adhere to the protocol.

Furthermore, this Directorate notes that the site is zoned as Single Residential Zone I and will be rezoned to Business Zone. As such, this Department understands that the provisions of the Subdivision of Agricultural Land, Act No. 70 of 1971 and the Conservation of Agricultural Resources Act, Act. No. 43 of 1983 will also apply.

● Animal Species Theme

[1] **SACNASP** – the legislated regulatory body for natural science practitioners in South Africa.

The animal species theme was rated as “**medium sensitivity rating**”. According to the protocol the presence or likely presence of the species of conservation concern (SCC) identified by the screening tool must be investigated through a site inspection by a specialist registered with the SACNASP within the field of practice relevant to the taxonomic groups (“taxa”) for which the assessment is being undertaken.

The procedure set out in the Protocol regarding the **Medium Sensitivity Species of Conservation Concern Confirmation** be followed. Please note that—

- where SCC are found on site or have been confirmed to be likely present, a **Terrestrial Animal Species Specialist Assessment** must be submitted in accordance with the requirements specified for “very high” and “high” sensitivity in this protocol.
- similarly, where no SCC are found on site during the site inspection or the presence is confirmed to be unlikely, a **Terrestrial Animal Species Compliance Statement** must be submitted.

● Aquatic Biodiversity Theme

The aquatic sensitivity theme is rated as “**very high**”. According to the protocol an assessment must be prepared by a specialist registered with the South African Council for Natural Scientific Professionals (SACNASP), with expertise in the field of aquatic sciences. It is noted that the EAP disagrees with the “very high” rating and proposed that it be reduced to “low sensitivity” rating. This implies that an **aquatic compliance statement** will be undertaken; however, the level of assessment may need to be changed based on input from the Breede Olifants Catchment Management Agency.

● Archaeological and Cultural Heritage Theme

The Archaeological and Cultural Heritage Sensitivity Theme is rated as “**very high**”. This Directorate does take note that the sensitivity rating was refuted and reduced to “**low**”. and it is noted that the proposed land use does not trigger Section 38(1) if the National Heritage Resources Act, 1999.

The procedure for site sensitivity verification where no specific assessment protocol has been prescribed, has been gazetted in Government Notice No. 320 of 20 March 2020. In this regard it is noted that a Notice of Intent to Developed will be submitted to Heritage Western Cape. Please be advised that where Heritage Western Cape requires further studies, that the report must comply with the minimum report requirements specified in Appendices 1 and 6 of the Environmental Impact Assessment Regulations, 2014 (as amended).

Section 38 of the NHRA sets out the requirements regarding the integration of the decision-making process with that of the EIA Regulations 2014, however, under the proviso that the necessary information is submitted and any comments and recommendations of the relevant heritage resources authority (HWC) with regard to such development have been provided and taken into account prior to the granting of the authorisation. Further to the above:

- ❖ An application for Environmental Authorisation, must include, where applicable, the investigation, assessment and evaluation of the impact of any proposed listed or specified activity on any national estate referred to in section 3(2) of the National Heritage Resources Act, 1999 (Act No. 25 of 1999), excluding the national estate contemplated in section 3(2)(i)(vi) and (vii) of that Act.
- ❖ Where Section 38 of the NHRA is triggered, the Standard Operating Procedure between Heritage Western Cape and this Department must be followed. If Section 38 is applicable to the proposed development, then the proponent/applicant is required to submit a Notice of Intent to Develop ("NID") to Heritage Western Cape and attach a copy to thereof to the EIA application form. If Heritage Western Cape requires a Heritage Impact Assessment, the Heritage Impact Assessment must be undertaken as one of the specialist studies of the EIA process to be undertaken in terms of the NEMA EIA Regulations, 2014.

● Civil Aviation sensitivity theme

The sensitivity of the civil aviation theme is rated as "high sensitivity". It is noted that the proposed development infrastructure will not exceed the thresholds of the Civil Aviation Regulations of 2011 in terms of the Civil Aviation Act, 2009 (Act No. 13 of 2009).

● Plant species theme

The Plant Species Theme sensitivities is rated as "**medium**". According to the protocol the presence or likely presence of the species of conservation concern (SCC) identified by the screening tool must be investigated through a site inspection by a specialist registered with the SACNASP with a field of practice relevant to the taxonomic groups ("taxa") for which the assessment is being undertaken.

This Directorate notes that the EAP recommended that the sensitivity rating should be "low" as the proposed development is within a highly transformed area with little remaining indigenous habitat. Notwithstanding this view, the procedure set out in the Protocol regarding the **Medium Sensitivity Species of Conservation Concern Confirmation** be followed. Please note that—

- where SCC are found on site or have been confirmed to be likely present, a **Terrestrial Plant Species Specialist Assessment** must be submitted in accordance with the requirements specified for "very high" and "high" sensitivity in this protocol.
- similarly, where no SCC are found on site during the investigation or if the presence is confirmed to be unlikely, a **Terrestrial Plant Species Compliance Statement** must be submitted.

● Terrestrial Biodiversity sensitivity theme

The Terrestrial Biodiversity sensitivity theme sensitivity is rated "**very high sensitivity**". According to the protocols, an assessment must be prepared by a specialist registered with the South African Council for Natural Scientific Professionals (SACNASP) with

expertise in the field of terrestrial biodiversity. This Directorate does take note that the EAP recommended the sensitivity rating to be "low"; however, in light of the procedure required for the animal species and terrestrial plant species, the level of assessment by the specialist must be informed by studies to confirm the presence of species of conservation concern. Where such species have been confirmed, it is advised that a Terrestrial Biodiversity Assessment be undertaken.

3.5. Combining specialist studies / reports:

According to the information in the SSVR, the assessments in terms of the Terrestrial Plant Species Theme and the Terrestrial Biodiversity Theme will be included in a single report. Therefore, it must be ensured that the report addresses all the minimum information requirements of all the relevant themes as specified in the respective protocols. Furthermore, the specialist must provide the necessary proof that he/she is appropriately registered with SACNASP for the respective Protocols.

For example, it may be possible to combine an assessment report for the Terrestrial Biodiversity and Plant Species themes if the person undertaking the respective assessments can demonstrate that she/he complies with all the requirements for the respective Protocols.

3.6. Other Specialist Assessments to be included in the BAR

● Socio-Economic Assessment

According to the information available to this Department, there are three existing service stations within a 3km radius from the proposed service station on Erf 7379, Pacaltsdorp with one within 300m, also along Beach Road.

In light of the above, a Socio-Economic Assessment must be undertaken to inform the BAR in terms of its need and desirability. Please consider the DEA (2017), Guideline on Need and Desirability, Department of Environmental Affairs in this regard.

Furthermore, the Socio-Economic Assessment must include a Market-Feasibility which includes the expected number and type of vehicles (i.e., light and heavy vehicles), which may make use of the facility once operational. Please also consider and consult this Department's:

- Guideline for involving social assessment specialists in the EIA process, February 2007.
- Guideline for involving economists in the EIA process, June 2005.

With due consideration of the above, in addition to the potential biophysical / geohydrological impacts of the proposed filling station, the feasibility of site must include an assessment which addresses as a minimum the following:

- (a) The impact of the proposed filling station on the existing competing sites within a radius of 3km from the proposed site within the urban environment or a 25km radius in the rural environment. This can be used as a norm against which to measure the sphere of competition.

- (b) Shared traffic streams to determine the impact on existing filling stations as mentioned above.
- (c) Interception rates of the proposed site and alternatives thereto must be determined. The relationship between the passer-by traffic and interception rate should be used as a guide in this regard.
- (d) Average fuel of the proposed and nearby site(s) must be determined and compared.
- (e) Traffic growth in the area (also referred to as the 'moving market factor').
- (f) Expected fuel sales should also be determined.
- (g) Impact on the other truck stops that are situated on the western side of the town. In combining the different aspects above, an assessment can be made of the impact of the proposed new filling station / truck stop on existing filling stations in the vicinity.
- (h) The impact on the sense of place that a truck stop would have on residences and tourist accommodation that is proposed; and
- (i) Cost of preparation, construction and rehabilitation.

In this regard, the EAP is advised to consult *Service Stations: Information Document for Environmental Assessment*, Department of Environmental Affairs and Tourism, December 2003, First Edition.

■ Geohydrological Investigation

A geohydrological assessment must be undertaken to determine the most suitable location for the proposed fuel storage tanks. The assessment must (as a minimum) contain information on the type and depth of the underlying aquifer and any mitigation measures to minimise the risk of groundwater pollution in the event where a leak may occur and the monitoring thereof.

■ Traffic Impact Assessment

This Directorate does note that a Traffic Impact Assessment will be done and included in the BAR.

■ Hydrology

It is noted that the screening tool indicated that a Hydrology Assessment must be conducted. Although the watercourse may have been transformed to a stormwater channel on the property, the aquatic assessment must consider the stormwater hydrology and the management thereof.

■ Noise Impact Assessment

Based on the Screening Tool a Noise Impact Assessment is required. This Directorate notes that the proposed development will be located along an arterial road which carries high volumes of traffic resulting in higher-than-normal ambient noise levels

already; however, the aspects related to noise during the non-operational and operational phased need to be considered.

4. Public Participation Process

- A public participation process ("PPP") that meets the requirements of Regulation 41 of the EIA Regulations, 2014 (as amended) must be undertaken. You are advised that public participation may be undertaken prior to the submission of the application, although this is not mandatory. It is the Environmental Assessment Practitioner's discretion at what stage the requirements of Regulation 41 are met, whether during the proposed application (pre-application) process or formal application process. You are reminded that a period of at least 30 days must be provided to all potential or registered interested and affected parties to submit comment on the BAR and EMPr.
- Should a public participation process, which includes the circulation of the pre-application BAR for comment, be undertaken prior to submission of an Application Form to this Directorate, in terms of Regulation 40, the pre-application BAR may also be submitted to this Directorate for commenting purposes. Please ensure a minimum of one electronic copy of the pre-application BAR is submitted to this Directorate for commenting purposes.
- In terms of Section 24O (2) and (3) of NEMA and Regulations 7(2) and 43(2) of the EIA Regulations, 2014, any State Department that administers a law relating to a matter affecting the environment relevant to the application must be requested to comment within 30 days. Please note that the EAP is responsible for such consultation. Therefore, it is requested that the EAP include proof of such notification to the relevant State Departments in terms of Section 24O (2) and (3) of NEMA in the BAR, where appropriate.
- Your list of State Departments to include in the PPP is acknowledged; however, please ensure that in addition to the identified authorities, it is advised that the following authorities are also consulted:
 - Department of Mineral Resources and Energy;
 - Western Cape Government: Department of Environmental Affairs and Development Planning – Pollution and Chemicals Management;
 - Garden Route District Municipality; and
 - the Fuel Retailers Association
- Delivery of reports/documents must be done in a manner provided for in section 47D of the NEMA and the Directions: Provided that all registered I&APs have access to such facilities. Electronic versions of reports may be made accessible through any of the following non-exhaustive list of methods: websites, Zero Data Portals, community or traditional authorities, Cloud Based Services.
- Please consider the following guidance regarding the Application Programme: Once the Application Form is submitted to this Directorate, the programme should allow for the

10-day acknowledgement period, prior to any Public Participation commencing, so that this Directorate can confirm that the application is in order.

- It must be possible to cross-reference the proposed delivery of documents to the preferences indicated in the I&AP Register.

5. Pre- Application Consultation

5.1. This Department will avail itself for a pre-application meeting engagement to provide further guidance and advice in terms of Regulation 8 on the process requirements and the administration of your application. The onus is on your appointed EAP to make the necessary arrangements for such a meeting.

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

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

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

6. Need and Desirability

In terms of the NEMA EIA Regulations, when considering an application, the Department must take into account a number of specific considerations including *inter alia* the need for and desirability of any proposed development. As such, the need for and desirability of the proposed activity must be considered and reported on in the BAR. The BAR must reflect how the strategic context of the site in relation to the broader surrounding area, has been considered in addressing need and desirability. Refer to the Department's Guideline on Need and Desirability (March 2013).

7. National Water Act, 1998 (Act No. 36 of 1998)

This Directorate does take note that the NOI was unclear if a water use licence application will be applicable. The Directorate notes that the proposed development is located within the regulated area of a watercourse (i.e. within 500m from a wetland). You are therefore strongly advised to consult with the relevant authority, the Breede-Gouritz Catchment Management Agency ("BGCMA") regarding the requirements of any application process. Furthermore, please be advised that in the event where a Water Use License is required that the EIA process and the Water Use License Application ("WULA") process must be synchronised. You are reminded that if these processes are not properly aligned, the lack of synchronisation; omission of any reports/information; or delay as a result thereof, may prejudice the success of the application for environmental authorisation.

8. Please ensure the Basic Assessment Report ("BAR") and Environmental Management Programme ("EMPr") contain all information requirements outlined in Appendices 1 and 4 respectively of the Environmental Impact Assessment Regulations, 2014 (GN R. 982 of 4 December 2014, as amended).

General

9. Please note that the activity may not commence prior to an environmental authorisation being granted by this Directorate.
10. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any new or revised information received.

Yours faithfully

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HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

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