



REFERENCE: 16/3/3/6/7/1/A5/88/2166/20

ENQUIRIES: Ms. Saa-rah Adams

DATE: 09/12/2020

The Board of Directors
Kaap Agri (Pty) Ltd
Private Bag X3401

PAARL
7620

Attention: Mr. Ben Nieuwoudt

Tel.: 021 860 3745

E-mail: ben.nieuwoudt@kaapagri.co.za

Dear Sir

ACKNOWLEDGEMENT OF RECEIPT AND COMMENT ON THE NOTICE OF INTENT ("NOI") TO SUBMIT AN APPLICATION FOR BASIC ASSESSMENT IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED EXPANSION OF A DIESEL STORAGE AND DISTRIBUTION DEPOT AT WESGRAAN KLIPHEUWEL SILO ON PORTION 17 OF THE FARM VRYHEID NO. 55, KLIPHEUWEL

1. The NOI and the associated documents received via electronic correspondence on 16 November 2020, refer.
2. This letter serves as an acknowledgement of receipt by this Department of the aforementioned correspondences.
3. Following a review of the information submitted to this Department, the following is noted:
 - 3.1. The existing operating facility includes the storage and handling of grain. Currently, the site comprises of grain storage silos and two 23 000 litre aboveground fuel storage tanks.
 - 3.2. The proposed development comprises of the construction of 5 x 83 000 litre aboveground fuel storage tanks and associated infrastructure which includes the following components:
 - 3.2.1. A bund retaining wall;
 - 3.2.2. Separate loading and offloading points on spill containment slabs;
 - 3.2.3. Brick paved roadways; and
 - 3.2.4. Raised islands
 - 3.3. The proposed development is located within an existing disturbed cadastral unit with gravel surfaces. The property is completely transformed and is zoned General Industry.

- 3.4. Access to/from the site can be obtained from the existing Minor Road 60 intersection with MR188 (Klipheuwel Road) and subsequently via three gates along the western boundary of the site.
4. Applicable Listed Activities
- 4.1. According to the information contained in your NOI, the proposed development constitutes a listed activity as defined in terms of the NEMA and EIA Regulations, 2014, (as amended) namely:
- 4.1.1. Activity 51 of Listing Notice 1 of Government Notice ("GN") No. R. 983 of the EIA Regulations, 2014 (as amended).
- 4.2. A Basic Assessment process must be followed in order to apply for Environmental Authorisation. Only the listed activity applied for shall be considered for environmental authorisation. The onus is on the applicant to ensure that all the applicable listed activities are applied for and assessed as part of the Basic Assessment process.
5. Screening Tool
- 5.1. This Directorate notes that a Screening Report (dated 25 August 2020) and confirmation of the relevant specialist studies to be conducted has been provided.
- 5.2. The following specialist assessments were identified in the Screening Tool Report and will not be undertaken:
- 5.2.1. A Landscape/Visual Impact Assessment;
- 5.2.2. An Archaeological and Cultural Heritage Impact Assessment;
- 5.2.3. A Palaeontology Impact Assessment;
- 5.2.4. A Terrestrial Biodiversity Impact Assessment;
- 5.2.5. An Aquatic Biodiversity Impact Assessment;
- 5.2.6. A Hydrology Assessment;
- 5.2.7. A Noise Impact Assessment;
- 5.2.8. A Traffic Impact Assessment;
- 5.2.9. A Geotechnical Assessment;
- 5.2.10. A Plant Species Assessment; and
- 5.2.11. An Animal Species Impact Assessment.
- 5.3. According to the Environmental Assessment Practitioner's ("EAP's") motivation, this Directorate notes the following:
- 5.3.1. The only specialist assessments to be conducted are a Traffic Impact Assessment and a Major Hazard Identification (MHI) assessment which is a health and safety risk assessment.

6. Protocols:

Since specialist assessments will be undertaken, your attention is drawn to the following:

- 6.1. The "Procedures for the Assessment and Minimum Criteria for Reporting on identified Environmental Themes in terms of Sections 24(5)(a) and (h) and 44 of the National Environmental Management Act, 1998, when applying for Environmental Authorisation" ("the Protocols") (Government Notice No. 320 as published in Government Gazette No. 43110 on

20 March 2020) came into effect on 9 May 2020. The Protocols are applicable to your application.

- 6.2. According to the Protocols, prior to commencing with a specialist assessment, the current use of the land and environmental sensitivity of the site under consideration identified in the Screening Tool Report, is confirmed by undertaking a site sensitivity verification. The site sensitivity verification report dated 16 September 2020, is noted.
 - 6.3. Where an assessment protocol is prescribed for one of the environmental themes included in the Protocol, the specialist assessment must comply with the Protocol.
 - 6.4. Where a specialist assessment is required, but no specific environmental theme protocol has been prescribed, the level of assessment must be based on the findings of the site verification and must comply with Appendix 6 of the EIA Regulations, 2014 (as amended).
 - 6.5. Please note that should relevant commenting authorities require any additional specialist assessments, the relevant specialist assessment must be undertaken.
7. You are advised that when undertaking the Basic Assessment process, you must take into account all applicable guidelines, including the guidelines developed by this Department. These can be downloaded from the Department's website. In particular, the guidelines that may be applicable to the proposed development include, *inter alia*, the following:
 - Circular EADP 0028/2014: One Environmental Management System.
 - Guideline for the Review of Specialist Input in the EIA process (June 2005).
 - Guideline for Environmental Management Plans (June 2005).
 - Guideline on Alternatives (March 2013).
 - Guideline on Need and Desirability (March 2013).

8. Exemptions

This Directorate notes that you do not intend to apply for exemption from any provisions contained in the EIA Regulations, 2014 (as amended) nor the NEMA. Please note that should exemption from any provisions contained in the EIA Regulations, 2014 (as amended) or the NEMA be required, an exemption application must be submitted and the exemption process must be finalised before submitting an application for Environmental Authorisation to the competent authority.

9. Alternatives

Be advised that in terms of the NEMA and the EIA Regulations, 2014 (as amended) the investigation of alternatives is mandatory. All alternatives identified must therefore be investigated to determine if they are feasible and reasonable. In this regard it must be noted that this Department may grant authorisation for an alternative as if the alternative has been applied for or may grant authorisation in respect of all or part of the activity applied for as specified in Regulation 20 of the NEMA and the EIA Regulations, 2014 (as amended). Alternatives are not limited to activity alternatives, but include layout alternatives, design, activity, operational and technology alternatives. Every EIA process must therefore identify and investigate alternatives, with feasible and reasonable alternatives to be comparatively assessed. If, however, after having identified and investigated alternatives, no feasible and reasonable alternatives were found, no comparative assessment of alternatives, beyond the comparative assessment of the preferred alternative and the "no-go" alternative, is required during the assessment. What would, however,

be required in this instance is proof of the investigation undertaken and motivation indicating that no reasonable or feasible alternatives other than the preferred and the "no-go" alternatives exist.

10. Public Participation

10.1. In accordance with this Department's Circular dated 14 May 2020, referenced: 16/2, this Directorate acknowledges receipt of the Public Participation Plan submitted with the NOI and notes the following steps to be taken in terms of Regulation 41 of the NEMA EIA Regulations, 2014 (as amended):

- 10.1.1. A register of potential Interested and Affected parties ("I&APs) will be opened.
- 10.1.2. All surrounding neighbours with formalized erven with postal addresses will be notified via letters to be sent via the postal system. The adjacent landowners and / or occupiers will therefore be notified via letters of the availability of the Basic Assessment EIA Report & EMPR (hardcopy and electronic copy) during the two respective 30-day commenting periods (on the pre-application and post application BAR Reports respectively).
- 10.1.3. Organs of State; the local ward councillor, local municipality and civic representative bodies (such as ratepayers' associations) will be notified by email and/ or post.
- 10.1.4. An advertisement will be published in the local newspaper in English.
- 10.1.5. A site notice will be erected at a place visible near the proposed entrance to the Klipheuwel fuel depot.
- 10.1.6. The reports will be sent to Organs of State in electronic format via a Cloud Based service or via email.
- 10.1.7. The reports will be made available on the SEC website (www.environmentalconsultants.co.za) for review and comment for a commenting period of 30 days during the pre-application consultation phase (on the Pre-Application Draft BAR) and for a further 30 days during the application consultation phase (on the application Draft BAR).
- 10.1.8. Following the initial 30 days public consultation phase and the second 30-day PPP period on the post application BAR, the I&AP register will be updated with all those who provided comments on the pre-application draft BAR.
- 10.1.9. Following the initial 30 days public consultation, and the second 30-day PPP period on the post application Draft BAR, a Comments & Response Table, summarising all comments received and SEC response to the comments received will be send to all registered I&AP's.
- 10.1.10. The BAR will be available on the SEC website and in hardcopy format at the Sisonke Sibambisene ECD centre located at the Klipheuwel Community Church.
- 10.1.11. Additional arrangements have been made with the Ward Councillor, Ruan Beneke (Ward 105) and community leader, Lynette Dalasile (Klipheuwel Leadership Group – Chairperson). SEC will provide Lynette Dalasile with a printed copy of the BAR and EMPR Reports when they become available for public and authority comment.
- 10.1.12. The Basic Assessment EIA & EMPR Report can be viewed by potential I&APs at the Sisonke Sibambisene ECD centre located at the Klipheuwel Community Church. Therefore, all potential I&APs will have access to a hardcopy of the

BAR and EMPR reports required to be made available for public comments, especially those residing in Ward 105 who may not have access to the internet to download big reports as a result of the National State of Disaster.

- 10.1.13. The Site Notice, Newspaper Advert and all other notification media (letters & email & website) will provide the details as to where the hardcopy reports and electronic copy reports can be viewed. In addition, Lynette Dalasile will allocate two community members to disseminate A5 pamphlets (x200) to the occupiers of the adjacent land (in this case an informal settlement) listing the details as to where the hardcopy reports and electronic copy reports can be viewed.
 - 10.1.14. When the Basic Assessment EIA & EMPR Reports are uploaded onto the SEC website, an additional upload of the Executive Summary will also be uploaded as a data saving alternative.
- 10.2. Based on the information contained in the Public Participation Plan, this Department herewith provides the following comments:
- 10.2.1. Please be reminded to include the details in your notices, of how I&APs can register, the commencement and dates on which the Public Participation commenting period(s) ends, how the reports can be accessed as well as the contact details of where to submit the comments to, including the correct email addresses, telephone and cellular phone numbers.
 - 10.2.2. Please ensure an electronic copy of each of the draft reports are submitted to this Directorate for commenting purposes or, if too large to attach to an e-mail, to be made available via an electronic link provided in the email that is accessible by the Directorate. A hard copy submission may be required at a later stage. The Department will advise you when a hard copy submission will be required.
 - 10.2.3. It is noted that a hard copy of the report will be placed at the Sisonke Sibambisene ECD Centre at the Klipheuwel Community Church for public review. The details of this must be made clear in the notification letters and electronic correspondences.
 - 10.2.4. Please be reminded that the Public Participation Process must fulfil the requirements outlined in Chapter 6 of the EIA Regulations, 2014 (as amended). Please ensure that all proof of having conducted the Public Participation Process in Chapter 6 of the EIA Regulations, 2014 (as amended)) must be supplied to this Department.
- 10.3. 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 Department in terms of Regulation 40, the pre-application BAR may also be submitted to this Department for commenting purposes. **Please ensure an electronic copy of the pre-application BAR is submitted to this Department for commenting purposes. A hard copy submission will be required at a later stage. This Department will advise you when a hard copy submission will be required.**
- 10.4. In terms of good environmental practice, you are encouraged to engage with State Departments and other Organs of State in the pre-application phase to solicit their inputs on any of their requirements to be addressed in the EIA process. Please note that this does

not replace the requirement of making the BAR available to State Departments as stipulated above.

10.5. Comments from but not limited to the following relevant authorities must be obtained during the Public Participation Process and included in the BAR submitted for decision-making:

- Heritage Western Cape;
- Department of Transport and Public Works;
- Department of Environmental and Development Planning: Directorate: Pollution and Chemicals Management;
- Department of Environmental and Development Planning: Directorate: Waste Management; and
- National Department of Water and Sanitation.

11. Environmental Management Programme ("EMPr")

In accordance with Section 24N of the NEMA and Regulation 19 of the EIA Regulations, 2014 (as amended), this Department hereby requires the submission of an EMPr. The contents of such an EMPr must meet the requirements outlined in Section 24N (2) & (3) of the NEMA (as amended) and Appendix 4 of the EIA Regulations, 2014 (as amended). The EMPr must address the potential environmental impacts of the activity throughout the project life cycle including an auditing protocol for the assessment of the effectiveness of monitoring and management arrangements after implementation. The EMPr must be submitted together with the BAR.

12. Need and Desirability

In terms of the NEMA and EIA Regulations, 2014 (as amended), when considering an application, this Directorate 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.

13. General

13.1. In addition to the above requirements, you must clearly show how the proposed development complies with the principles contained in Section 2 of the NEMA and how the proposed development meets the requirements of sustainable development.

13.2. You are hereby advised that the BAR must contain all the information outlined in Appendix 1 of the NEMA and EIA Regulations, 2014 (as amended), and must also include the information requested in this letter. Omission of any of the said information may result in the refusal of Environmental Authorisation.

14. 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 competent authority. 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; or
- of the outcome of the application.

15. This Department awaits the submission of the pre-application BAR and/or the application form for Environmental Authorisation.

16. Kindly quote the above-mentioned reference number in any future correspondencein regarding the pre-application.
17. Please note that the activity must not be commenced with prior to obtaining an Environmental Authorisation from the Competent Authority. It is prohibited in terms of Section 24F of the 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. Failure to comply in terms of this prohibition will result in the matter being referred to the Environmental Law Enforcement Directorate of this Department for possible prosecution. A person convicted of an offence in terms of the above is liable for a fine not exceeding R5 000 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.
18. This Department reserves the right to revise its comments and request further information from you based on any information received.

Yours faithfully

pp HEAD OF DEPARTMENT

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Copied to: (1) C. Müller Erasmus (SEC)
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