



EIA REFERENCE NUMBER: 16/3/3/1/D6/35/0001/23
NEAS REFERENCE NUMBER: WCP/EIA/0001250/2023
DATE OF ISSUE: 30 JUNE 2023

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 DEVELOPMENT OF A RETAIL CENTRE AND ASSOCIATED INFRASTRUCTURE ON ERF 1027 IN FRAAIUITSIG, KLEIN BRAK RIVER

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 with respect to the **preferred alternative**, described in the Final Basic Assessment Report ("FBAR") (Ref: MCEC/ENV/053/FBAR/01), dated 12 April 2023, as prepared and submitted by the appointed environmental assessment practitioner ("EAP"), Ms. Moira Cloete of *Moira Cloete Environmental Consulting*.

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 Trustee(s)
% Mr. John Ernest Robertson
The Klipheuwel Trust
PO Box 96
KLEIN BRAK RIVER
6503

E-mail: john@rooiheuwelfarm.co.za

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

B. LIST OF ACTIVITIES 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)	
<p>Activity Number: 27</p> <p>Activity Description:</p> <p>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—</p> <ul style="list-style-type: none"> (i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan. 	<p>The proposal will require the clearance of approximately 2.5ha of indigenous vegetation as defined in the EIA Regulations, 2014 (as amended).</p>
<p>Activity Number: 28</p> <p>Activity Description:</p> <p>Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development—</p> <ul style="list-style-type: none"> (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare; <p>excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.</p>	<p>The proposal is a 2.5ha (approx.) retail centre which will be developed on Erf 1027, which has been used for agriculture on or after 1 April 1998 and is located outside the interim urban area as defined in the Departmental Circular 1 of 2012, dated 5 March 2012</p>
Environmental Impact Assessment Regulations Listing Notice 3 of 2014, Government Notice No. 985 of 4 December 2014 (as amended)	
<p>Activity Number: 4</p> <p>Activity Description:</p> <p>The development of a road wider than 4 metres with a reserve less than 13,5 metres.</p> <ul style="list-style-type: none"> i. Western Cape <ul style="list-style-type: none"> i. Areas zoned for use as public open space or equivalent zoning; ii. Areas outside urban areas; <ul style="list-style-type: none"> (aa) Areas containing indigenous vegetation; (bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or iii. Inside urban areas: <ul style="list-style-type: none"> (aa) Areas zoned for conservation use; or (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority. 	<p>The proposal will require the development of internal roads which will be wider than four metres. The roads will be development on areas which has indigenous vegetation cover.</p>

<p>Activity Number: 12 Activity Description:</p> <p>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.</p> <p>i. Western Cape</p> <p>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</p> <p>ii. Within critical biodiversity areas identified in bioregional plans;</p> <p>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;</p> <p>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</p> <p>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.</p>	<p>The proposal will require the clearance of approximately 25 600m² of indigenous vegetation as defined in the EIA Regulations, 2014 (as amended). The ecosystem mapped on the proposed site has been mapped as Hartenbos Dune Thicket which has a gazetted conservation status of Endangered.</p>
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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 development of a retail centre on Erf 1027 in Fraaiuitsig, Klein Brak River (“the property”). Erf 1027 is an undeveloped and vacant property located between the N2 National Road and the R102 Provincial Road. The proposed retail centre will consist of the following:

- Supermarket approximately 2 300m² in extent;
- Hardware store approximately 1 400m² in extent;
- Hardware yard of approximately 1 500m² in extent;
- Line shops approximately 1 600m² in extent;
- Drive through restaurant facility approximately 470m² in extent;
- Parking facilities of approximately 1 440m² in extent;
- Sealed asphalt parking approximately 11 100m² in extent;
- Sealed asphalt service road;
- Paved area approximately 2 000m²; and
- Grass and vegetation cover of approximately 1 900m²

The proposal also includes the installation of service infrastructure for sewage, water and electricity. The proposal will be implemented in accordance with the Site Development Plan (“SDP”) (Drawing No: FA7036-07-A100 (Rev. D05) dated 23 February 2021, drafted by SKCM Architects. Please refer to Annexure 2 for the SDP.

C. SITE DESCRIPTION AND LOCATION

The proposed retail centre will be located on Erf 1027 in Fraaiuitsig, Klein Brak River. Access to the proposed site is off the R102 Provincial Road, directly opposite Impala Avenue.

Coordinates of the site:

Latitude (S)			Longitude (E)		
34°	04'	47.48"	22°	08'	43.64"

SG digit codes:

C05100060000102700000

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. Moira Cloete

EAPASA No: 2019/910

Moira Cloete Environmental Consulting

Crossmalooft Farm

PO Box 206

ELLIOT

5460

Tel: 073 500 1235

Fax: 086 590 2032

E-mail: moira@mcec.co.za | info@mcec.co.za

Web: <https://www.mcec.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 **30 June 2028** (validity period), during which period the Holder must ensure that the—
 - (a) physical implementation of all the authorised listed activities is started with and concluded at the site;
 - (b) construction monitoring and reporting requirements are undertaken at the site 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 at the site; and
 - (d) environmental auditing requirements are complied with for the site; 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.
2. The construction phase of the Environmental Authorisation is subject to the following:
 - 2.1. The Holder must finalise the post construction rehabilitation and monitoring requirements within a period of three months from the date the development activity (construction phase) is concluded at the site.

Note: Failure to complete the post construction rehabilitation and monitoring requirements at least three months prior to expiry of the validity period of an environmental authorisation may result in the Holder not being able to comply with the environmental auditing requirements in time.

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).

3. The Holder is authorised to undertake the listed activities specified in Section B above in accordance with the preferred alternative described in the FBAR, dated September 2022, on the site as described in Section C above.

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

The development of a retail centre on Erf 1027 in Fraaiuitsig, Klein Brak River ("the property"). Erf 1027 is an undeveloped and vacant property located between the N2 National Road and the R102 Provincial Road. The proposed retail centre will consist of the following:

- Supermarket approximately 2 300m² in extent;
- Hardware store approximately 1 400m² in extent;
- Hardware yard of approximately 1 500m² in extent;
- Line shops approximately 1 600m² in extent;
- Drive through restaurant facility approximately 470m² in extent;
- Parking facilities of approximately 1 440m² in extent;
- Sealed asphalt parking approximately 1 100m² in extent;
- Sealed asphalt service road;
- Paved area approximately 2 000m²; and
- Grass and vegetation cover of approximately 1 900m²

The proposal also includes the installation of service infrastructure for sewage, water and electricity. The proposal will be implemented in accordance with the Site Development Plan ("SDP") (Drawing No: FA7036-07-A100 (Rev. D05) dated 23 February 2021, drafted by SKCM Architects. Please refer to Annexure 2 for the SDP.

4. This Environmental Authorisation may only be implemented in accordance with the approved Environmental Management Programme ("EMPr").
5. 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.
6. 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

7. The Holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 7.1. notify all registered Interested and Affected Parties ("I&APs") of –
 - 7.1.1. the decision reached on the application;
 - 7.1.2. the reasons for the decision as included in Annexure 3;
 - 7.1.3. the date of the decision; and
 - 7.1.4. the date when the decision was issued.
 - 7.2. 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;
 - 7.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 7.4. provide the registered I&APs with the:
 - 7.4.1. name of the Holder (entity) of this Environmental Authorisation,
 - 7.4.2. name of the responsible person for this Environmental Authorisation,
 - 7.4.3. postal address of the Holder,
 - 7.4.4. telephonic and fax details of the Holder,
 - 7.4.5. e-mail address, if any, of the Holder,
 - 7.4.6. 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).
 - 7.5. 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.
 - 7.6. 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

8. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities on site.
 - 8.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 8.2. The notice must also include proof of compliance with the following conditions described herein:
Condition no.: 7 and 11
9. Seven calendar days' notice, in writing, must be given to the Competent Authority on completion of the construction activities.

Management of activity/activities

10. The Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is herewith **approved**. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

11. The Holder must appoint a suitably experienced environmental control officer ("ECO"), for the duration of the construction and rehabilitation phases of implementation contained herein.

12. The ECO must–
 - 12.1. be appointed prior to commencement of any works (i.e. site preparation; removal and movement of soil and / or rubble or construction activities commencing);
 - 12.2. ensure compliance with the EMPr and the conditions contained herein;
 - 12.3. keep record of all activities on the site; problems identified; transgressions noted, and a task schedule of tasks undertaken by the ECO;
 - 12.4. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised.
13. 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.
14. 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

15. The Holder must, for the period during which the environmental authorisation and EMPr remain valid ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited.
16. 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:
 - 16.1. Auditing during the non-operational phase (construction activities):
 - 16.1.1. During the period which the development activities have been commenced with on the site, the Holder must ensure annual environmental audit(s) are undertaken and the Environmental Audit Report(s) submitted annually to the Competent Authority.
 - 16.1.2. A final Environmental Audit Report for the construction phase (non-operational component) must be submitted to the Competent Authority within **three (3) months** of completion of the construction phase.
17. The Environmental Audit Report, must –
 - 17.1. 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;
 - 17.2. provide verifiable findings, in a structured and systematic manner, on–
 - 17.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
 - 17.2.2. 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.

- 17.3. identify and assess any new impacts and risks as a result of undertaking the activity;
 - 17.4. evaluate the effectiveness of the EMPr;
 - 17.5. identify shortcomings in the EMPr;
 - 17.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
 - 17.7. 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;
 - 17.8. indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
 - 17.9. include a photographic record of the site applicable to the audit; and
 - 17.10. be informed by the ECO reports.
18. 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

- 19. Appropriate indigenous trees must be planted at every second parking bay along the northern boundary of the site to minimise visual impact.
- 20. 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. 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:
Gavin.Benjamin@westerncape.gov.za;
Zaahir.Toefy@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:
Gavin.Benjamin@westerncape.gov.za;
Zaahir.Toefy@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
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.

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

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

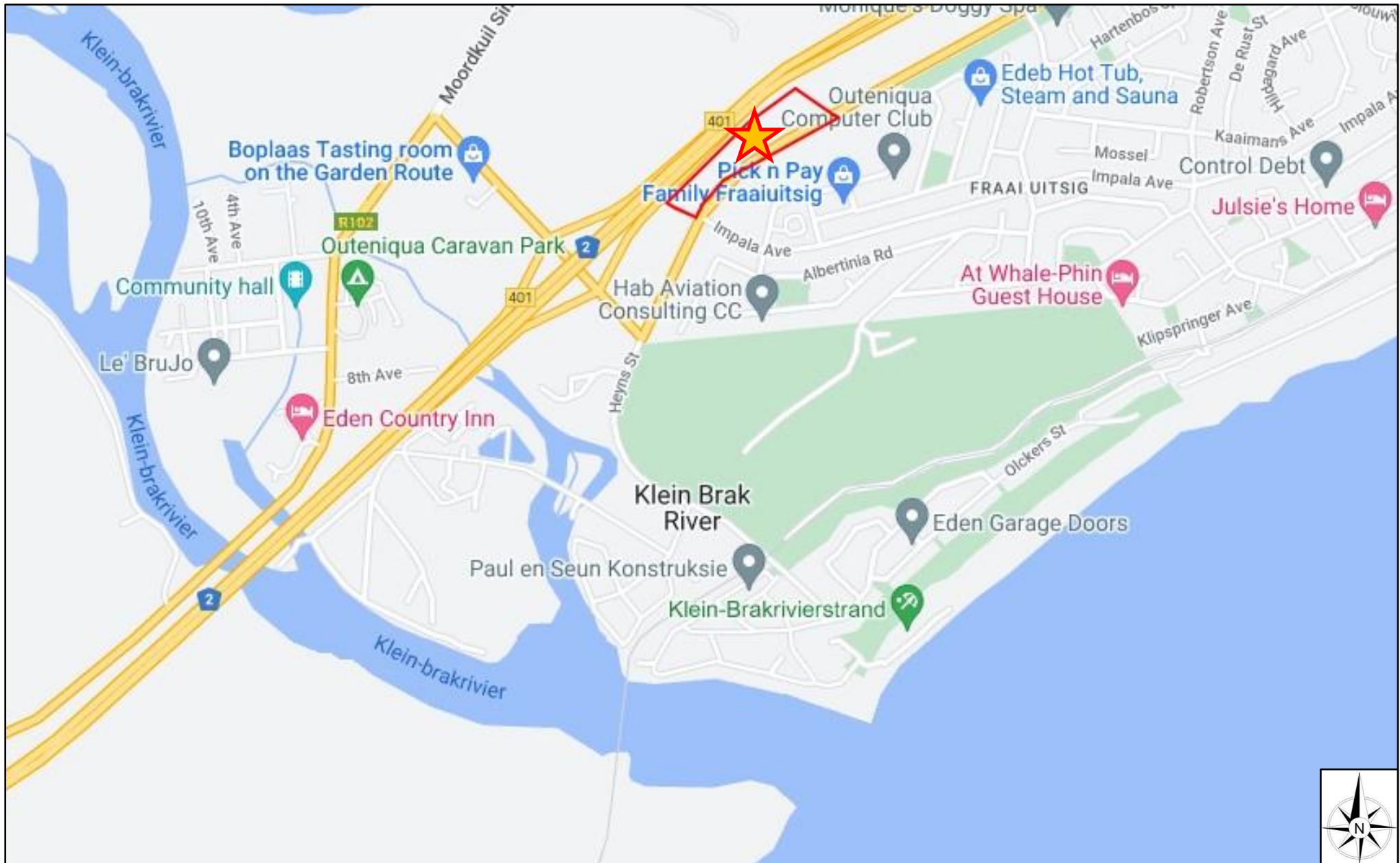
ACTING DIRECTOR: DEVELOPMENT MANAGEMENT
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING
DATE OF DECISION: 30 JUNE 2023

FOR OFFICIAL USE ONLY:

EIA REFERENCE NUMBER: 16/3/3/1/D6/35/0001/23

NEAS REFERENCE NUMBER: WCP/EIA/0001250/2023

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 25 January 2023, the Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 12 April 2023;
- 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 12 April 2023; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

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. A site meeting was held prior to the application, on 26 January 2021. Therefore, the relevant officials are familiar with the property and surrounding area. 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

The listed activity not authorised in this Environmental Authorisation is:

- Activity 9 of Listing Notice 1 (GN No. R983 of 4 December 2014, as amended):
Reason – the bulk water infrastructure that is required (110mm diameter pipes) does not trigger the listed activity.

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;
- fixing a notice board on 17 February 2023 at the site entrance.
- 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 17 February 2023;
- the placing of a newspaper advertisement in the “Mossel Bay Advertiser” on 17 February 2023; and
- making the Draft Basic Assessment Report available to I&APs for public review and comment from 17 February to 20 March 2023, respectively. The BAR was made available at the following link: <https://www.mcec.co.za/>

NOTE: The application was preceded by an application for the same development (Ref: 16/3/3/1/D6/35/0014/22), which included public participation which adhered to Regulation

41. However, the application was withdrawn after the submission of the FBAR for that application due to a procedural flaw.

❖ *Comment from registered Interested and Affected parties*

Comments were submitted by, *inter alia*, the Midbrak Ratepayers Association ("MRA") and private individuals. No objections to the proposed development were submitted; however, the MRA raised concerns about the traffic impacts in and out of the development on the R102 Provincial Road and the aesthetic appearance of the proposed development. Furthermore, the MRA enquired on the provision of facilities for informal vendors as well as public transport.

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

Alternative 1: Preferred Alternative ("Herewith Approved")

The proposal entails the development of a retail centre on Erf 1027 in Fraaiuitsig, Klein Brak River ("the property"). Erf 1027 is an undeveloped and vacant property located between the N2 National Road and the R102 Provincial Road. The proposed retail centre will consist of the following:

- Supermarket approximately 2 300m² in extent;
- Hardware store approximately 1 400m² in extent;
- Hardware yard of approximately 1 500m² in extent;
- Line shops approximately 1 600m² in extent;
- Drive through restaurant facility approximately 470m² in extent;
- Parking facilities of approximately 1 440m² in extent;
- Sealed asphalt parking approximately 1 100m² in extent;
- Sealed asphalt service road;
- Paved area approximately 2 000m²; and
- Grass and vegetation cover of approximately 1 900m²

The proposal also includes the installation of service infrastructure for sewage, water and electricity. The proposal will be implemented in accordance with the Site Development Plan ("SDP") (Drawing No: FA7036-07-A100 (Rev. D05) dated 23 February 2021, drafted by SKCM Architects. Please refer to Annexure 2 for the SDP.

Alternative 2:

The proposal entails the development of a retail centre on Erf 1027 in Fraaiuitsig, Klein Brak River ("the property"). Erf 1027 is an undeveloped and vacant property located between the N2 National Road and the R102 Provincial Road. The proposed retail centre will consist of the following:

- Supermarket approximately 1 900m² in extent;
- Hardware store approximately 1 120m² in extent;
- Hardware yard approximately 1 500m² in extent;
- Line shops approximately 1 165m² in extent;
- Parking facilities for 200 parking bays;
- Sealed asphalt service road;
- Paving;

- Grass and vegetation cover; and
- Remaining undeveloped area as Open space

The proposal also includes the installation of service infrastructure for sewage, water and electricity. This is not the applicant's preferred option from a commercial point of view, as it does not include a drive through fast food outlet.

"No-Go" Alternative

This alternative implies that the proposed retail centre and associated structures and infrastructure are not developed. According to the applicant, it makes no socio-economic sense to leave the property undeveloped. According to the applicant the catchment is large enough to support the proposed retail centre, particularly during the peak holiday season, which will also assist in alleviating congestion on the already developed retail centres in the Groot Brak, Mossel Bay and George areas.

4. Impact Assessment and Mitigation Measures

4.1 Activity need and desirability

The property is located within the urban edge (2019) of the Mossel Bay Municipality. However, the property is currently zoned Agriculture Zone I and will therefore require to be zoned to Business Zone I in order to accommodate the proposed retail centre. The property is currently undeveloped and was previously used for agricultural activities. However, because of the relatively small size of the property and the fact that the property is bordered by the N2 National Road in the north, approved residential development on the north-east and existing retail and residential development on the south (across the R102 Provincial Road), agriculture is not considered a feasible option for the applicant.

To inform the BAR the applicant commissioned a retail desktop study which concluded that considering the demographics, the 10-20% seasonal market, the presence of existing retail centres in the catchment area, the location (Erf 1027) can accommodate a retail centre with a Gross Lettable Area ("GLA") of between 4 200m² and 5 200m² with a 13% market share. The GLA for the proposed retail facility is approximately 5 276m².

Furthermore, the proposed retail facility is expected to generate job opportunities during the construction and operational phase and will provide a positive socio-economic impact the Klein Brak area.

In light of the above, the Department is of the considered opinion that the proposed retail facility will provide a positive socio-economic impact to the surrounding area.

4.2 Agricultural aspects

Even though the property is located within the urban edge of Klein Brak River as depicted in the Mossel Bay Municipality's Spatial Development Framework (MSDF), the property is currently zoned Agriculture Zone I. The property was previously used for agriculture but has laid fallow for numerous years and has remained undeveloped. In order to inform the BAR, an agricultural compliance statement was commissioned by the applicant. According to the compliance statement, six on-site soil profiles were dug on the property and found that the soil has a very low clay content (less than 6%), resulting in a very high infiltration rate, very low water holding capacity, excessive internal drainage, and very limited cation adsorption ability, resulting in poor nutrient content of the soil. The property has no irrigation rights. Based on the assessment, the specialist concluded that the property can only carry 4 large stock units, provided that winter pastures are planted. It concluded that the

proposed retail centre or alienation of the property of 3.5ha will have extremely low to no impact on the agricultural production capacity of the area.

In light of the above, the Department is of the considered view that the agricultural aspects have been adequately addressed in the BAR and that the proposed development will result in insignificant impact on the agricultural resources of the area.

4.3 Biodiversity aspects

A description of the biodiversity 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.

A terrestrial Biodiversity Assessment was commissioned to inform the BAR. According to the information in the BAR, the ecosystem / historic vegetation has been mapped as Hartenbos Dune Thicket, which has a gazetted conservation status of Endangered according to the revised list of ecosystems that are threatened and in need of protection (Government Notice No. 2747 of 18 November 2022). The property has also been mapped as part of an Ecological Support Area due to the mapped ecosystem. The biodiversity assessment indicates that the property has historically been used for agriculture and consists entirely of secondary grassland with low species diversity. The assessment concludes that the vegetation on site is not representative of the listed ecosystem. Furthermore, there are no aquatic features present on site.

In considering the above, it is accepted that there will not be a significant impact on the receiving terrestrial biodiversity as a result of the proposed retail centre.

4.4 Heritage / Archaeological Aspects

A description of the heritage 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.

According to the information in the BAR the relevant heritage authority, i.e. Heritage Western Cape, required the compilation of a Heritage Impact Assessment with the main focus being on palaeontological aspects due to the moderate potential to find fossils, according to the South African Heritage Resources Information System ("SAHRIS"). An HIA was commissioned to assess the impact on heritage related resources.

The cultural heritage resources include scenic routes. The proposed retail facility will be located along the N2 National Road which is regarded as a scenic route. In response to this, the design of the proposed development will include "green houses" along the front end of businesses and a natural paint scheme will be implemented. Furthermore, the existing vegetation between the site and the N2 National Road will be maintained and indigenous trees will be planted between every second parking bay to reduce the visual impact.

With regard to the palaeontological aspects, according to the study the site is situated at 8-10m above mean sea level (MSL) at the foot of the inland slope of a coast-parallel dune cordon of Waenhuiskrans Fm. aeolianite, where its calcreted capping is beneath the Qg surficial coversands. Furthermore, the study was informed by the geotechnical report included in the services report (Appendix E of the BAR) which included evaluation of eight test pits which were excavated to depths of 2-3m. The excavations revealed that beneath the uppermost, pale coversands is a more compact

buried soil unit of yellow-brown hues which reflect the intergranular pedogenic mud content (<10%) and a mainly medium sand grain size consistent with an aeolian origin as earlier coversands. At depths varying from 1.2 to 1.9 m in four test pits the top of the underlying calcrete was intersected. As such, the palaeontological study concludes that fossil finds are improbable; however, a chance occurrence of fossil material cannot be entirely dismissed.

The HIA was submitted to Heritage Western Cape, which endorsed the HIA on 13 January 2023. 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 comment and recommendations of the relevant heritage resources authority with regard to the proposed development have been taken into account.

4.5 Traffic aspects

Due to the nature of the proposed development, it is expected that traffic will be generated to and from the facility. In order to gain an understanding of the impact, a Traffic Impact Assessment ("TIA") was undertaken to inform the BAR.

According to the study, the access to the proposed retail facility is located directly opposite Impala Avenue to avoid creating any new intersections on the R102, in accordance with the information provided in the Arterial Management Plan for the MR00344 and MR00348, January 2012 (Reference Seven). The TIA further indicates that Reference Seven indicates that it is desirable to retain the stop control operations and not to upgrade to traffic signals unless warranted in terms of the South African Road Traffic Signs Manual ("SARTSM") guidelines.

According to the TIA the Signalised & Unsignalised Intersection Design and Research Aid ("SIDRA") analyses indicates that the MR00344 / Impala Avenue intersection (proposed development access) currently operates at an acceptable Level of Service ("LOS") and with the addition of the traffic from the proposed retail centre will continue to operate at an acceptable LOS. This is based on the trip generation for the proposed development which estimates that the development will generate in the order of 400 and 600 new vehicle trips in the PM and Saturday peak hours, respectively. Furthermore, the analysis indicates that the intersection remains a priority / stop-controlled intersection and introduce an eastbound left turn auxiliary lane to address traffic safety along the R102. The TIA further recommends that the current painted island on the eastern side of the intersection needs to be converted to a right turn auxiliary lane into the development from the east.

The Western Cape Government: Department of Infrastructure (Roads Branch) was consulted during the public participation process regarding the required access to Erf 1027 off Main Road 344 ((MR00344 / R102). The Branch indicated that they are willing to produce a conditional positive response to a development on Er 1027; however, approvals will only be considered and issued upon receipt of a land use application that carries the support of the Local Authority. Based on the consultation, the need for additional designs or studies regarding the intersection were not apparent. The requirements from SANRAL have been addressed in the report and no further approval of information is required.

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 five (5) 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 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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