



REFERENCE: 16/3/3/1/D6/17/0003/19
ENQUIRIES: Shireen Pullen
DATE OF ISSUE: 25 SEP 2019

The Director
Micaren Exel Petroleum Wholesale (Pty) Ltd
PO Box 784
VRYBURG
8600

Attention: Mr. J. du Bruyn

Tel: 082 371 6672
Fax: 053 927 4199
Email: jaapmicaren@mntloaded.co.za

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): PROPOSED GREAT BRAK FILLING STATION ON ERF 4788, GREAT BRAK RIVER

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** Environmental Authorisation, attached herewith, together with the reasons for the decision.
2. In terms of Regulation 4 of the Environmental Impact Assessment Regulations, 2014, you are instructed to ensure, within 14 days of the date of the Environmental Authorisation, that all registered interested and affected parties ("I&APs") are provided with access to and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the Appeal Regulations, 2014, which prescribes the appeal procedure to be followed. This procedure is summarized in the attached Environmental Authorisation.

Yours faithfully

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 3)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Copy

Ms S. Holder
Mr. W. Manuel

Cape EAPrac (EAP)
Mossel Bay Municipality

Fax: 044 874 0432
Email: wmanuel@mosselbay.gov.za



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With reference to your application for the abovementioned, find below the outcome with respect to this application.

ENVIRONMENTAL AUTHORISATION

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 Department 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 Basic Assessment Report ("BAR") dated 4 June 2019.

The granting of this Environmental Authorisation is subject to compliance with the conditions set out in section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Director
Micaren Exel Petroleum Wholesale (Pty) Ltd
% Mr. J. Micaren
PO Box 784

4th Floor, York Park Building,
93 York Street, George, 6529
tel: +27 44 805 8600 fax: +27 44 874 2423

Private Bag X6509, George, 6530

www.westerncape.gov.za/eadp

VRYBURG

8600

Tel: 082 371 6672

Fax: 053 927 4199

Email: jaapmicaren@mtnloaded.co.za

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

B. LIST OF ACTIVITIES AUTHORISED

The holder is herein authorised to undertake the following alternative that includes the listed activities:

The proposal entails the undertaking of the listed activities below, in order to construct a Filling Station, an outdoor picnic and recreational park, a craft and skills development centre and service infrastructure to support the proposed development.

Government Notice No. R. 983 of 4 December 2014 (as amended) –

Listed Activities	Activity/Project Description
<p>Government Notice No. 983 of 4 December 2014 - Activity 14 Activity Description The development and related operation of facilities or infrastructure, for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 cubic metres or more but not exceeding 500 cubic metres.</p>	<p>The storage of fuel in four (4) x 46 cubic (184 cubic metres in total) underground tanks</p>
<p>Activity 19 A Activity Description The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from – (ii) the littoral active zone, an estuary or a distance of 100 metres inland of the highwater mark of the sea or an estuary, whichever distance is the greater.</p>	<p>The development of left and right turning / slip lanes within Long Street to provide safe access and egress at property entrance; a) Raising of development footprint/s positioned on and below the 1:100 year floodline of the Great Brak River Estuary to 500mm above the 1:100 floodline with infill material (G4 gravel) (to ±4m contour / above mean-sea level). b) Excavation and moving of material required for the installation of the underground fuel, rainwater, blackwater and greywater tanks; stormwater infrastructure and construction of the buildings and associated infrastructure,</p>

	within 100m of the Great Brak River Estuary.
<p>Government Notice No. 983 of 4 December 2014 - Activity 10</p> <p>Activity Description</p> <p>The development and related operation of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of 30 but not exceeding 80m³.</p> <p>(ii) All areas outside urban areas.</p> <p>(aa) Areas seawards of the development setback line or within 200 metres from the highwater mark of the sea is no development setback line is determined;</p> <p>(bb) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no setback line has been determined;</p> <p>(cc) Areas estuary side of the development setback line or in an estuarine functional zone where no such development setback line has been determined.</p>	<p>Storage and handling of fuel within 100m of Great Brak River Estuary and within the Estuary Functional Zone (EFZ).</p> <p>Underground fuel tanks = 184m³</p>
<p>Activity 12</p> <p>Activity Description</p> <p>Clearance of 300m² 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) Within any Critically Endangered or Endangered ecosystem listed in terms of section 52 of NEM:BA...</p> <p>(ii) Within Critical Biodiversity Areas identified in bioregional plans;</p> <p>(iii) Within the littoral active zone or 100m of the 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 even in urban areas.</p>	<p>Clearance of more than 300m² of vegetation, to allow for the upgrade of stormwater management infrastructure and installation of recreational park infrastructure (restaurant deck, amphitheatre, boardwalk, playground, fence line etc.), within a listed Endangered ecosystem, CBA and within the estuarine functional zone of the Great Brak River Estuary.</p>

“Listed activities”.

C. SITE DESCRIPTION AND LOCATION

The listed activities will take place on erven 4788, Great Brak River.

SG 21 Code: C05100030000478800000, previously
C05100000000013500004

Coordinates:

ACTIVITY RELATED TO THE LISTED ACTIVITY	LATITUDE (S)	LONGITUDE (E)
Filling Station Forecourt	34° 03' 18.25"S	22° 13' 10.22"E
Underground Fuel Storage Tanks and Fuel Pump/ Delivery Area	34° 03' 18.52"S	22° 13' 11.49"E
Advertising Pylon	34° 03' 16.16"S	22° 13' 10.89"E
Craft and Skill Development Centre	34° 03' 17.17"S	22° 13' 12.95"E
Amphitheatre	34° 03' 19.56"S	22° 13' 10.07"E
Greywater Conservancy Tank	34° 03' 17.41"S	22° 13' 13.55"E
Children's Playground	34° 03' 19.04"S	22° 13' 07.68"E

The listed activities will be undertaken at the following co-ordinates:

The above is hereinafter referred to as "**the site**".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Environmental Assessment Practitioner:
Cape Environmental Assessment Practitioners (Pty) Ltd
% Ms Stan Holder
PO Box 2070
GEORGE
6530

Tel: 044 874 0365
Fax: 044 874 0432

D. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to the following preferred Alternative B as described in Section B above:

The proposal entails the storage and handling of dangerous goods; infill and excavations within 100m of high-water mark and the removal of critically endangered vegetation in order to construct a filling station and supporting amenities including a restaurant, skills centre, amphitheatre, playground and advertising pylon. The proposal also includes the addition of a turning lanes at the access at the main access to the development (Long Street and the N2 highway intersection). The service station will consist of the following:

a) A Filling Station:

- (i) Four (4) x 46 cubic metre underground fuel tanks;
- (ii) A Forecourt with 4-filling points for light vehicles;
- (iii) One (1) truck filling / fuel delivery point;
- (iv) A Convenience store, with associated offices and ablutions;
- (v) Advertising pylon / sign to be located at existing entrance off Long Street.

b) A Restaurant

Within the Filling Station building, with outdoor seating extending behind the

building into the recreational park.

c) An Outdoor Picnic & Recreational Park

To be located behind the Filling Station building and behind police station erf. --

This 'recreational park' will include:

- (i) family picnic area;
- (ii) children & pet play areas (large jungle-gym & lawn areas);
- (iii) artistic features;
- (iv) natural wetland feature (rehabilitated degraded wetland);
- (v) raised wooden walkways;
- (vi) amphitheatre;
- (vii) raised berm & vegetation screen (adjacent to western boundary)

d) Craft & Skills Development Centre

Workshop, display and retail space to show-case local community-based craft & skills development projects – to be positioned on the northern portion (front) of the property adjacent to Long Street.

e) Service Infrastructure:

- (i) The widening of Long Street at entrance to property to allow for dedicated left and right turning lanes;
- (ii) Access off Longstreet will remain in current position, maintaining 'right-of-way' servitude to SAPS property;
- (iii) The existing stormwater channels along Long Street will be upgraded, within Erf 451 (beyond western boundary) and below southern slope, to be open grass-block stormwater channels. Stormwater channel behind development (base of slope) will be directed to degraded wetland, as part of rehabilitation and stormwater management efforts;
- (iv) Four (4) x 46 cubic metre underground fuel tanks, within sealed concrete container;
- (v) 4 x sampling wells around sealed fuel tank container & 1 x monitoring borehole near northern boundary;
- (vi) Onsite Wastewater Treatment Package Plant (Bio-Mite) to treat sewage and waste;
- (vii) Water generated by the facility, to be located adjacent to eastern boundary of the property;
- (viii) Underground Greywater conservancy storage tank (100kl underground) for treated effluent & rainwater &/municipal water for firefighting and irrigation purposes;
- (ix) Underground Rainwater storage tank/s (25kl underground) irrigation, flushing urinals and toilets etc. purposes;
- (x) Irrigation & fire-fighting reticulation system;
- (xi) Electricity – connection to existing municipal network & erection of 50kW grid connected solar PV system on Forecourt roof; and
- (xii) Palisade fenceline around property boundary.

2. The non-operational component of the Environmental Authorisation is subject to the following:

2.1 The holder must commence with all the listed activities within a period of **three (3) years** from the date of issue of this Environmental Authorisation;

- 2.2 The development activities (construction phase) must be concluded within a period of **five (5) years** from the date of commencement of the first listed activity; and
- 2.3 The post construction rehabilitation and monitoring requirements must be finalised within a period of 12-months from the date the development activities (construction phase) are concluded.
3. The operational aspects of this Environmental Authorisation are granted for a period until **25 September 2049** during which period all rehabilitation and monitoring requirements and final environmental auditing and reporting must be finalised. The filling station may not be operated without a valid Environmental Authorisation.
4. 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.
5. 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.

Written notice to the Department

6. Seven calendar days' notice, in writing, must be given to the Department before commencement of construction activities.
 - 6.1 The notice must make clear reference to the site details and EIA Reference number given above.
 - 6.2 The notice must also include proof of compliance with the following conditions described herein:

Conditions: 6, 7, 8, 9, 15 and 17

Notification of authorisation and right to appeal

7. The applicant 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 outcome of the application;
 - 7.1.2 the reasons for the decision as included in Annexure 2;
 - 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 National Appeals Regulations, 2014 detailed in Section F 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:
 - 7.4.1 the 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 the 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.

Management of activity

- 8. The draft EMPr submitted as part of the application for Environmental Authorisation must be amended to address the following aspects, and must be re-submitted to the Department and approved, prior to commencement of construction activities:
 - 8.1 Incorporate all the conditions given in this Environmental Authorisation;
 - 8.2 Comply with section 24N of the National Environmental Management Act, 1998 and Appendix 4 of the Environmental Impact Assessment Regulations, 2014;]
 - 8.3 Clearly list the impact management outcomes and impact management actions for the proposed development;
 - 8.4 Includes an Integrated Waste Management Plan that identifies all of the waste contractors that will be responsible for the removal of the different waste proposed to be recycled (cardboard, metal, plastic, glass, green waste) and waste contractors responsible for the cleaning of the chemical toilets and associated removal of sewage waste.
 - 8.5 Includes a detailed Stormwater Management Plan compiled by an engineer, which is based on the final lay-out plan of the proposed development.
 - 8.6 Operational Aspects –
 - 8.6.1 Include the implementation plan with clear impact management outcomes;
 - 8.6.2 An indication of the persons who will be responsible for the implementation of the impact management actions.
 - 8.6.3 Address the aspects of whether the proposed development will be able to link up with the Municipal sewage system, if available.
 - 8.6.4 Include all the conditions and monitoring aspects associated with the groundwater monitoring activities.
 - 8.6.5 Include emergency procedures and actions to be undertaken for emergency spills or malfunctioning of tanks.

An application for amendment to the EMPr must be submitted to the Department if any further amendments to the EMPr are proposed, other than those mentioned above, and this may only be implemented once the amended EMPr has been authorised by the Department.

The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

9. The holder must appoint a suitably experienced environmental control officer ("ECO") must be appointed in the Pre- Construction and Construction Phase to monitor that the applicant is in compliance with all of the requirements of the EMPr and the EA and to ensure the effective decommissioning of the construction phase. Such appointment must take place prior to commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
10. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activities, and must be made available to anyone on request.
11. 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 Department who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Environmental Audit Reports

12. The holder must, for the period during which the environmental authorisation and EMPr remain valid—
 - 12.1 ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited;
 - 12.2 undertake during the construction phase annual environmental audit(s) and submit these Environmental Audit Report(s) to the Competent Authority.
 - 12.3 submitted the final construction phase Environmental Audit Report(s) to the Competent Authority within **two (2)** months of completion of construction and another audit report 1 year after rehabilitation has been done;
 - 12.3 ensure during the operation phase that environmental audit(s) are performed annually for the first three years of operation and once every 3 years thereafter and submit these Environmental Audit Report(s) to the Competent Authority.
 - 12.4 ensure that an environmental audit report is prepared by an independent person with the relevant environmental auditing expertise and submit these to the Competent Authority.
13. The Environmental Audit Report, must –
 - 13.1 provide verifiable findings, in a structured and systematic manner, on–
 - (a) the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and

- (b) 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.
 - 13.2 identify and assess any new impacts and risks as a result of undertaking the activity;
 - 13.3 evaluate the effectiveness of the EMPr;
 - 13.4 identify shortcomings in the EMPr;
 - 13.5 identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
 - 13.6 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;
 - 13.7 indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
 - 13.8 include a photographic record of the site applicable to the audit and be informed by the ECO reports.
14. The holder must, within 7 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

- 15. Four (4) sampling wells and one monitoring borehole must be established between the filling station and northern property boundary. The positions of the monitoring wells must be indicated on the site layout diagram, once the final station design has been confirmed. The wells and monitoring borehole must be established at least 3 months, prior to the installation of the tanks.
- 16. The development must connect to the municipal sewage network as soon as it becomes available in future to prevent and mitigate any potential pollution of surface and groundwater sources.
- 17. Effective pollution and erosion control measures, as well as stormwater management must be implemented on the subject property. This must be done in accordance with the Stormwater Management Plan that must be submitted and approved by this Department as part of the EMPr, prior to commencement of construction activities.
- 18. An integrated waste management approach, which is based on waste minimisation and incorporates reduction, recycling, re-use and disposal, where appropriate, must be employed. Any solid waste must be disposed of at a landfill licensed in terms of the applicable legislation. This must be done in accordance with the Integrated Waste Management Plan that must be submitted and approved by this Department as part of the EMPr, prior to commencement of construction activities.
- 19. 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 include: archaeological remains (including fossil bones and fossil shells); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features; rock art and rock engravings; shipwrecks; and graves or unmarked human burials.

A qualified archaeologist must be contracted where necessary (at the expense of the applicant and in consultation with the relevant authority) to remove any human remains.

Operational Aspects

20. For the duration of the operational phase, the groundwater quality must be monitored and results made available to this Department upon request.
21. The degraded wetland must be rehabilitated and kept in an ecologically acceptable state for the duration of the operational phase.
22. On-going alien management must be undertaken on the property.

E. General

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.

Amendment of Environmental Authorisation and EMPr

2. If the holder does not commence with a listed activity within the period referred to in Section D, this Environmental Authorisation shall lapse for that activity, 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 submit an application for amendment of the Environmental Authorisation to 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 grant such 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.

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.

4. The period within which commencement of the listed activities must occur, may not be extended unless the required process to amend the environmental authorisation as contemplated in the Environmental Impact Assessment Regulations, 2014 (or subsequent notice) is followed.
5. 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 EMP 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.
6. 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

7. 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).
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.

F. APPEALS

Appeals must comply with the provisions contained in the National Appeal Regulations 2014 (as amended).

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; and
- 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. -
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.
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 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: 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 Marius.Venter@westerncape.gov.za.

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

G. 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



MR. GAVIN BENJAMIN
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 3)

DATE OF DECISION: 25/09/2019

COPY:

Ms S. Holder
Mr W. Manuel

Cape EAPrac (EAP)
Mossel Bay Municipality

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FOR OFFICIAL USE ONLY:

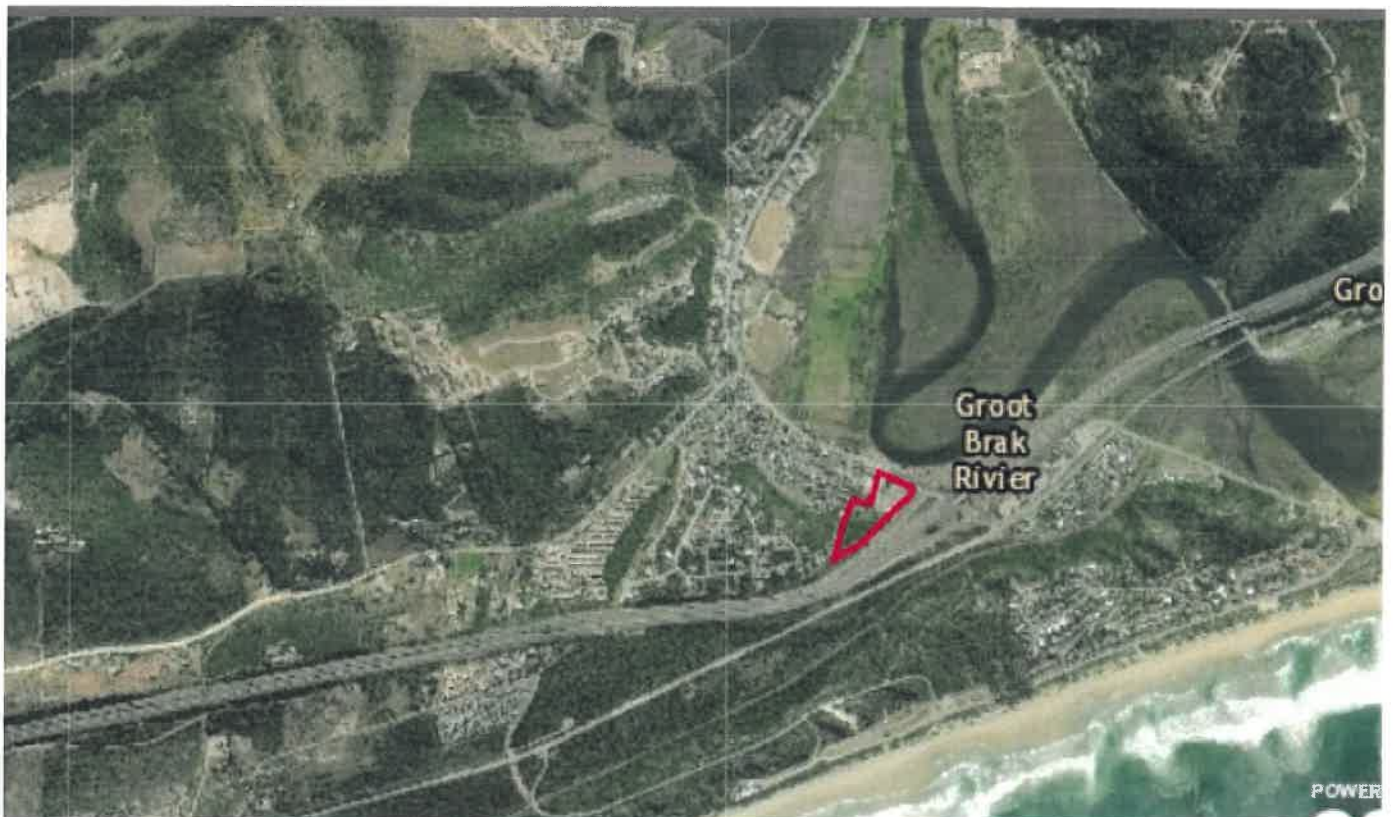
EIA REFERENCE NUMBER:

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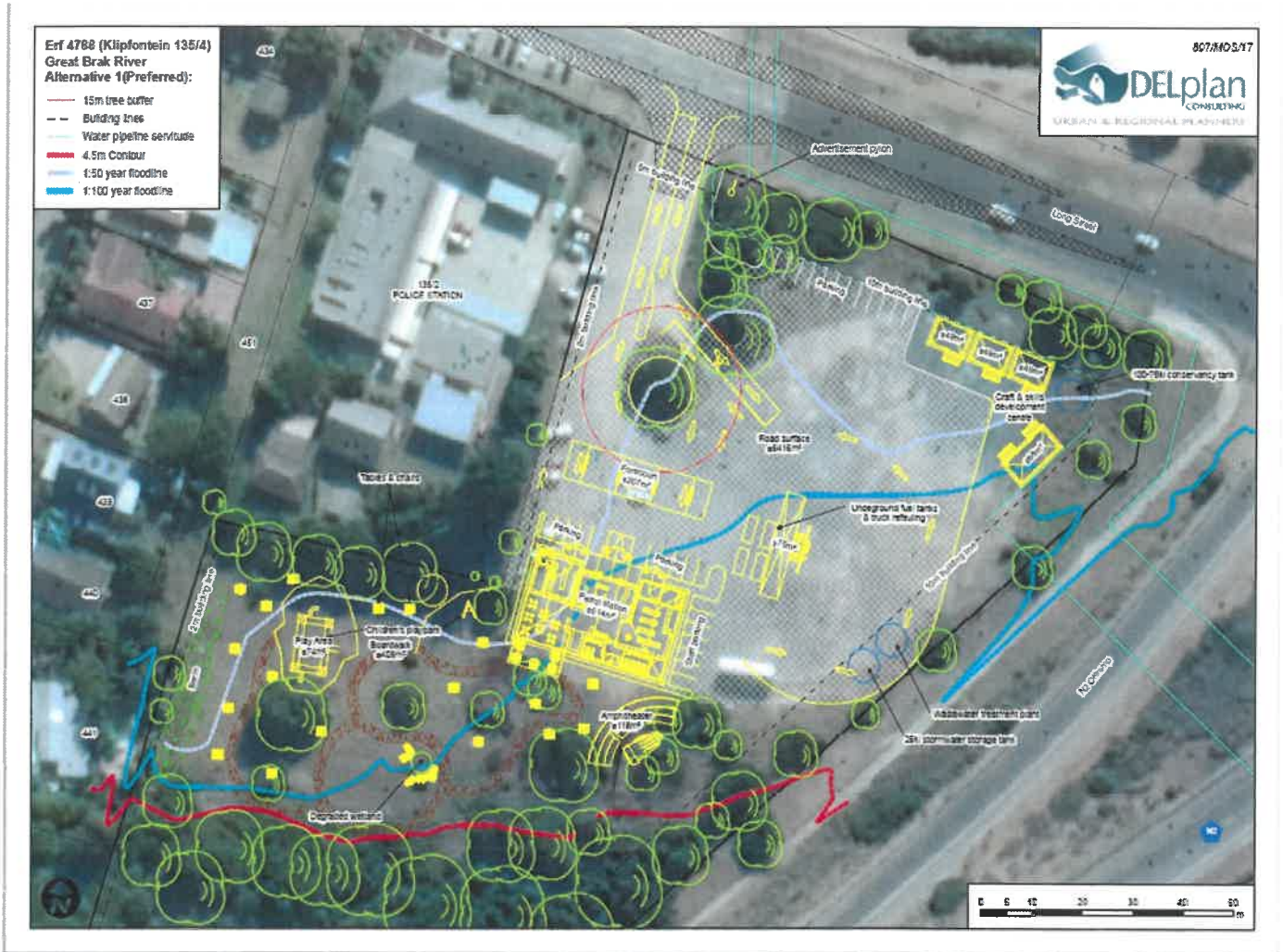
NEAS EIA REFERENCE NUMBER:

WCP/EIA/ 0000567/2019

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE DEVELOPMENT PLAN



ANNEXURE 3: REASONS FOR THE DECISION

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

- a) The information contained in the Application Form dated 4 March 2019, the final BAR dated 4 June 2019 and the EMPr submitted together with the final BAR on 06 June 2019;
- 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 final BAR received by this Department on 06 June 2019;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) A site visit was conducted on 17 September 2019 by the case officer Shireen Pullen to familiarize herself with the site and surrounding area.

All information presented to the Department 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. Public Participation

The public participation process included:

- Identification of and engagement with I&APs;
- Site meeting on 5 May 2017;
- Meeting with the Mossel Bay Municipality on 26 February 2018;
- Fixing a notice board at the site and any alternative site on 4 June 2018 where the listed activities are to be undertaken;
- Interaction with the Commission on Land Rights in 2017, early in the process;
- 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 councilor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities;
- Placing of a newspaper advertisement in the 'Mossel Bay Advertiser' on 16 June 2017;
- Opportunity to comment on the draft BAR (15 April - 20 May 2019).

The Breede Gouritz Catchment Management Agency (BGCMA) indicated that the proposal requires general authorization in terms of the National Water Act, 1998 (Act No 38 of 1998) and further indicated that the BGCMA has no objections to the proposed filling station subject to certain conditions, which were incorporated into the conditions of this approval.

Garden Route District Municipality also raised some concerns regarding the on-site sewage packaging plant, which was adequately addressed by the EAP.

The Department of Environmental Affairs and Development Management: Pollution and Chemicals Management raised concerns regarding possible oil spills and groundwater

monitoring, which were adequately addressed in the BAR. Stringent conditions have been incorporated in this authorization and also specific provisions in the EMPr to address this.

The Directorate: Biodiversity and Coastal Management of this Department, as well as CapeNature have also raised concerns regarding the sensitivity of the site in terms of the specific biodiversity attributes and the location of the proposed site within the Coastal Protection Zone during both the pre-application and application stage. In response to this the initial proposal was changed and the development footprint was setback. According to the BAR, the development site is effectively isolated from the rest of the Estuarine Functional Zone and the Great Brak River Estuary by the existing road (Long Street) and is no longer functionally linked with the estuary. This Department concurs with this statement as there is no direct connectivity with the estuarine functional zone, as the development site or footprint is detached by Long Street from the estuarine system and plays no significant role in the functional dynamics of the estuary, although it is located below the 1:100 year floodline.

All other concerns raised by I&APs, including the adjacent landowners, the Khoi Hessqa UID 256531 Gourikwa Khoisan Stamhuis and the Cochoqua Khoisan Tribal House were responded to and adequately addressed during the public participation process. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr to adequately address the concerns raised.

This Department concurs with the Environmental Assessment Practitioner's responses to the issues raised during the public participation process and has included specific conditions in the Environmental Authorisation and EMPr.

2. Alternatives

According to the BAR no property alternatives were considered as the applicant has an existing long term lease agreement with the landowner (Mossel Bay Municipality) for the proposed site.

The consideration of alternatives includes the development of only a filling station, without the supporting facilities, however, this was not considered desirable and aligned with the approved second lease agreement with the landowner. Further, the needs of the community will also not be met, nor the rehabilitation and management needs of the remainder of the property, as recommended by the various specialists and Municipality.

The BAR notes that the proximity of the Great Brak River Estuary, the fact that the northern portion of the property is located below the 1:100 year floodline of the estuary and that the entire development site falls within the Estuarine Functional Zone is the main concern. According to the specialist, The filling station (within its associated 4000m² lease area) should be placed as far above the 1:100 year floodline as possible, while avoiding other constraints of the property (e.g. the 10m building lines on northern and eastern boundaries, 4.5m contour line along base of southern slope, remnant vegetation etc.). This aspect coupled with the need to make use of the transformed platform as much as possible, without compromising the visibility of the filling station. According to the BAR this footprint was later shifted slightly further back (approximately 15m) to avoid and allow for sufficient vehicle egress around the 'milkwood tree island', which is located at the entrance of the subject property.

Alternative 1 (Preferred Alternative)

This alternative entails the establishment of a filling station and other supporting amenities on the southern portion of the current disturbed platform on Erf 4788, with more than half of the

main building of the filling station, as well as the underground fuel tanks and truck re-fuelling or delivery area, located above the 1:100 year floodline. The proposal includes the following:

- a) **Restaurant** – within the Filling Station building, with outdoor seating extending behind the building;
- b) **Outdoor Picnic and Recreational area** – behind the Filling Station building and behind police station erf. This 'recreational park', will include:
 - i. family picnic area;
 - ii. children and pet play areas (large jungle-gym and lawn areas);
 - iii. artistic features;
 - iv. natural wetland feature (rehabilitated degraded wetland);
 - v. raised wooden walkways (so not to impact on tree root systems or wetland area);
 - vi. amphitheatre – creating a platform for local performing artists and as an outdoor education classroom; and
 - vii. raised berm and vegetation screen (adjacent to western boundary, between police station erf and slope to reduce potential noise and visual impacts on neighbouring residential erven).
- c) **Craft and Skills Development Centre**, located on north-eastern corner of the site - at the **front of the property adjacent to Long Street**.
 - i. The remainder of the filling station building footprint and that of the Community Craft and Skills Development Centre buildings on the north-eastern corner of the development site, which fall below the 1:100 year floodline, are to be raised above the 1:100 year floodline with infill material (G4 gravel), to mitigate potential flooding risk.
 - ii. The outdoor deck and seating of the restaurant, as well as the small Amphitheatre, are to be located behind the main Filling Station building; while the picnic area, boardwalk and children's playground is to extend behind the Police Station erf. Access to the Recreational Park will be through the filling station main building and around the eastern parking area.

The preferred development footprint for the filling station has been strategically placed on the existing transformed area of the property, with the intention to retain, rehabilitate and enhance the vegetation and aquatic features on the remainder of the property.

Alternative 2

This alternative entails the construction of a filling station within the vegetated area, above the 1:100 year floodline and below the 4.5m contour line i.e. further south, at base of vegetated slope. With this alternative the following must be noted:

- a) The entire extent of the filling station main building, as well as underground fuel tanks, is located above the 1:100 year floodline, with only a small portion of the forecourt structure extending below it. This filling station infrastructure still falls within 200m from the high-water mark of the estuary and within the EFZ;
- b) The Community Craft and Skills Development Centre buildings remain on the north-eastern corner of
- c) the site and will be raised above the 1:100 year floodline will infill G4 gravel;
- d) The outdoor deck and seating of the restaurant is located directly behind the main building,
- e) instead of being shifted to the western side where it will impact on the degraded wetland;
- f) Facilities associated with the Recreational Park: small Amphitheatre, picnic area, boardwalk and alternative; children's playground, is restricted behind the Police Station erf, and accessed from in front of the filling station main building.

- g) Proposed advertising pylon, rainwater tanks, bio-mite wastewater treatment package plant, effluent conservancy tank etc. to be positioned similar to that of the preferred Alternative.

This is not the applicant's preferred alternative due to the following:

- The filling station footprint and associated parking would require the clearance of a large area of vegetation, just below the sensitive, steep southern slope;
- The filling station would be setback so far back on the property (against the slope) that it will not be suitably visible to potential customers traveling on the N2 or Long Street;
- The Recreational Park would be considerably smaller, with its facilities cramped behind the Police Station erf;
- The substantial flood-mitigation and pollution prevention measures are applicable to both footprint positions or alternative 1 and 2 (above or at the 1:100 floodline) i.e. there is no significant reduction in flood risk between the preferred / alternative layout. The alternative 2 layout, positioned above the 1:100 floodline, however results in far greater loss of terrestrial habitat and negative impacts on the degraded wetland and stability of the southern slope; and
- The distance between the Craft and Skill Development Centre (ideally positioned at the front or north of the property) and the filling station and recreational park facilities would be impractical and inconvenient for those using and visiting the centre alike.

No-Go Alternative

This alternative entails implementing the status quo of no development of the site. This is not the applicant's preferred alternative as the socio-eco benefits to both the applicant and the community will be lost.

3. Impact Assessment and Mitigation measures

3.1 Planning

3.1.1 Western Cape Provincial Spatial Development Framework (PSDF)

According to the BAR the proposed development compliments the spatial goals that aim to take the PSDF on a path towards greater productivity competitiveness and opportunities within the spatial economy and more inclusive development in the urban areas. The BAR submits that the following SDF principles have a bearing on the proposed development.

(i) ***Revitalise and Strengthen Urban Space-Economies as the Engine of Growth:***

The site is currently used as a building material or road material stockpile site, as well as an over-night or servicing yard for municipal refuse and sewerage trucks, passenger busses, and construction-related plant or heavy vehicles. According to the above-mentioned PSDF goal, vacant and under-utilised strategically located public land parcels, such as this one, should be targeted to levers the regeneration and revitalisation of urban economies. Incentives should be put in place to attract economic activities close to dormitory residential areas, facilitate brownfields development (e.g. mixed use development and densification in appropriate locations).

(ii) ***Ensure Compact, Balanced and Strategically Aligned Activities and Land Uses***

Modal Interchanges and underutilised strategically located land parcels, such as this one should be used as a lever to regenerate and revitalise urban settlements.

The proposed development will also promote functional integration to ultimately increase liability of urban areas.

3.1.2 Municipal Spatial Development Framework (SDF)

The BAR submits that the SDF aims to achieve a sustainable land use pattern that conserves the environment, supports rural tourism and agricultural economic growth, and employment creation. Additionally, it seeks to promote inclusionary, efficient and urban growth that provides access to opportunity for existing and future residents. The BAR also notes that the proposed development will lead to increase in convenience to the local community and transient market (domestic and international travellers). The establishment of the proposed development will assist in creating employment opportunities, as well as promote economic growth in the local and regional area. Furthermore, the provision of the proposed restaurant, recreational and picnic area, craft and skills development centre, will assist in enhancing and promoting local tourism while establishing a tourism landmark in Great Brak River.

3.1.3 Municipal Integrated Development Plan (IDP)

According to the BAR the IDP highlights the need for job creation and social services. This proposed development will result in the upgrading of a portion of Long Street, stormwater system and streetscape, as well as the creation of job opportunities for in this area. One of objectives in the IDP is "to facilitate economic and tourism development to the benefit of the town and residents". Some key focus areas in this objective lie in tourism and economic development. The BAR states that the provision of the proposed restaurant, recreational and picnic area, craft and skills development centre will not only uplift local tourism, but also benefit local businesses and provide means of employment creation and skills enhancement, which will in turn improve living standards as people can consume higher levels of goods and services.

3.1.4 Draft Great Brak River Estuarine Management Plan (January 2018)

This document states that there must be adequate protection provided for estuarine biota to ensure persistence of populations, species, habitats and ecosystem processes. In light of the fact that the site is effectively cut-off from the Estuarine Functional Zone at Long Street, the BAR submits that the proposal will not have the same impact on the estuarine biota, as it would have been, if it was not cut off by this road.

According to the BAR, all alien vegetation will be controlled and indigenous vegetation and wetland /or drainage features on the site will be retained, rehabilitated and enhanced with planting and landscaping effort and proper stormwater management. In deriving to the preferred alternative, all the issues were taken into account and the development was planned in an environmentally conscious and self-sustainable, providing a family and community orientated space.

Further to this, the document states that freshwater resources and land in the Great Brak River catchment must effectively managed so as not to compromise the quality or quantity of freshwater reaching the estuary or exacerbate flood risk around the estuary. The proposed development also includes a facility that will treat and recycle all wastewater generated on-site (for fire-fighting and irrigation use). All rainwater will be stored and used for flushing toilets and urinals. This Department is of the opinion that the proposed development will not compromise the amount or quality of water reaching the estuary.

Furthermore, this Department also agrees that the kind of facilities that the proposed development will offer will ultimately lead to an increase of environmental education pertaining to estuaries, increase the benefits of ecosystem services and eco-tourism.

3.2 Need and Desirability

According to the BAR the proposed site is located within the urban-edge of Great Brak River at an already well established intersection, providing vehicles easy and safe access. Even though the Total filling station is within close proximity of the proposed development, it is located on the opposite side of the N2, which isn't convenient to residents of Great Brak River or the traffic coming towards George. The proposed filling station will cater mainly for residents within the Great Brak River area and transient traffic travelling up the N2 towards George.

According to the BAR, healthy competition among the existing and proposed new filling stations will ultimately benefit the consumers without adversely impacting on the long-term sustainability of the existing stations. The BAR further submits that the sense of safety of filling up closer to home will appeal to many residents in the area, while provision of a convenience store and restaurant will add additional convenience to residents in the immediate area. Supporting facilities will also benefit the local community and attract tourists to Great Brak River.

3.3 Services/ bulk infrastructure

Although sufficient bulk services capacity exists for the propose development, the development will be partially self-sustainable, as it will generate the bulk of its electricity needs through the installation of solar panels, the use of rainwater tanks, stormwater and greywater for toilets and urinals and the on-site treatment and re-use of waste water.

3.4 The Site

According to the BAR and the information gathered during the site visit, the site contains remnants of indigenous as well as alien vegetation around periphery of property and up slope from +/- 4m contour. This includes several large protected (Milkwood and Yellowwood) and other indigenous trees, particularly at the entrance, behind the Police Station and on the slope. However, this Department is satisfied that the preferred alternative was planned in such a way as to avoid most of this sensitive vegetation. The site is also located in the estuarine functional zone, but is entirely cut off from the estuary by long street. This road serves as a barrier and there is a need to maintain the integrity of the road, despite potential flooding in the area.

3.5 Biodiversity and biophysical impact

The BAR submits that the site is located within the estuarine functional zone, but there is an existing road separating the site from the Great-Brak River. According to the BAR adequate protection will be provided for estuarine biota to ensure persistence of populations, species, habitats and ecosystem processes. The BAR further states that alien vegetation must be monitored and controlled and this EMPr will provide guidance in this respect. Conservation of biodiversity will require restoration and maintenance of ecosystem health through the provision of environmental flows, as well as rehabilitation of habitats that have been damaged or modified, e.g. removal of invasive alien vegetation and effective management of the mouth of the estuary and water quality in the estuary. The proposed development will also contribute to awareness raising towards Biodiversity conservation, which in turn will require the provision of educational material and signage.

The concerns raised by the Directorate: Coastal Management of this Department have been considered. This Department is however of the opinion that the development proposal and the associated infrastructure is secondary to the primary establishments (i.e. the existing road and associated infrastructure, businesses and housing developments), which is directly adjacent to and surrounding the subject property. The nature of the proposal will not instigate any threat to human life as a result of potential flooding, as it involves a filling station and associated service-infrastructure that will mainly be exposed to potential flooding or damage. Specific measures to protect the integrity of the proposed development during flood events have been proposed and this Department is convinced that these will adequately protect and mitigate the effects of flooding, as is the case with other similar types of developments in close proximity of the site. The proposal does not involve any residential component or overnight sleeping facility or exposure of vulnerable people/communities.

The BAR submits that the proposed development will not impact on the estuarine biota, as it is effectively cut-off from the EFZ by Long Street. This Department is further of the opinion that the development was also designed in such a way to retain indigenous vegetation and wetland or drainage features and to help with rehabilitation of the site by planting and landscaping the remaining area, but also to enhance stormwater management on the subject property as a whole.

3.6 Aquatic

Due to the fact that the site is located between the N2 Highway, residential development and Long Street, with limited and highly modified aquatic features within the proposed development area, the potential negative cumulative impacts to aquatic ecosystems in the area is expected to be very low. This is also confirmed by the specialist. By implementing the provisions of the EMPr (effective pollution and erosion control, and stormwater management), these impacts can be adequately mitigated.

3.7 Visual

There is a significant height difference between the development site and the higher lying N2 highway and residential suburb to the south. The visual intrusion and change in the sense of place that will result from the development of the Filling Station and its associated recreational park, skills development centre and rehabilitated landscape, will be an improvement and have a positive effect. The village of Groot Brak will benefit from this development by gaining a visually attractive and useful amenity that also provides a visual statement at its main entrance.

3.8 Traffic

According to the Traffic Impact Assessment (TIA), given the considerable traffic to be attracted to the filling station, the existing entrance off Long Street will need to be upgraded to include dedicated left and right turning lanes. However, the impact of the traffic attracted from the surrounding road network has little to no effect on the Level of Service (LOS) of the nearby intersections. Therefore, no further upgrades are required to accommodate the proposed development. This Department concur with the findings of the TIA and support the proposed recommendations.

3.9 Socio-economic

The Applicant has committed to partnering with the community and other role-players to uplift the local community by investing in and supporting local entrepreneurs in the Great Brak River and Mossel Bay area, which will contribute to local job creation. The

Applicant wishes to establish a partnership with the Wonderful SA Foundation (100% local, non-profit organisation) and the Great Brak River Youth Café project, as well as the Mossel Bay Municipality and Western Cape Government, which have also shown their support of these two projects or organisations.

As part of this development and in co-operation with Wonderful SA Foundation and the Great Brak River Youth Café project, Micaren Exel plans to build a skills development centre where a small factory or training space will be provided for local people to transfer skills, manufacture and sell their unique products e.g. woodwork, textile or fabric printing, leather work, recycled furniture and décor etc. The products from this skills centre will also be sold at Micaren Exel Filling Stations nationwide.

Furthermore, the skills centre will serve as a tourist attraction where visitors can see local artisans in action, and experience the manufacturing and production process before purchasing the products at the factory outlet, retail area or showroom. In this Department's opinion, this will all contribute socio-economically to the community.

Although the proposed development will result in both positive and negative impacts this Department is of the opinion that the positive impacts will outweigh the negative impacts. The implementation of the mitigation measures contained in the EMP and the conditions imposed in this environmental authorization will ensure that the positive impacts will largely outweigh the negative impacts, as the latter can be regarded insignificant in nature due to the distinct separation of the proposed site from the rest of the estuary.

4. 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.

5. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the 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.

----- **END** -----