



**EIA REFERENCE:** 16/3/3/1/B3/38/1013/18  
**NEAS REFERENCE:** WCP/EIA/0000372/2018  
**ENQUIRIES:** D'mitri Matthews  
**DATE OF ISSUE:** 2018 -07- 0 6

The Trustees  
Die van Zyl Familie Trust  
P. O. Box 37  
**WELLINGTON**  
7654

**Attention: Mr D. Anderson**

Tel.: (021) 862 1973  
Fax: (086) 691 7159

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): EXPANSION OF FUEL STORAGE FACILITIES TO ESTABLISH A FILLING STATION ON ERF NO. 9903, WELLINGTON**

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, (as amended), 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 National Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarized in the attached Environmental Authorisation.

Yours faithfully

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)**  
**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: (1) Ms S. de Beer (Mills and Otten Environmental Consultants)  
(2) Ms C. Winter (Drakenstein Municipality)  
(3) Mr J. van Greunen (Landowner)

Fax: (086) 554 6573  
Fax: (021) 872 8054  
Fax: (021) 873 2497



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## **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 (AS AMENDED): EXPANSION OF FUEL STORAGE FACILITIES TO ESTABLISH A FILLING STATION ON ERF NO. 9903, WELLINGTON**

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 (as amended), the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activity specified in Section B below with respect to Alternative 1, described in the Basic Assessment Report ("BAR"), dated December March 2018.

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**

Die van Zyl Familie Trust  
% Mr D. Anderson  
P. O. Box 37  
**WELLINGTON**  
7654

Tel.: (021) 862 1973  
Fax: (086) 691 7159

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

## B. LIST OF ACTIVITIES AUTHORISED

Listed activities	Activity/Project Description
Government Notice No. 327 of 7 April 2017 – Activity Number: 51 The expansion and related operation of facilities for the storage, or storage and handling, of a dangerous good, where the capacity of such storage facility will be expanded by more than 80 cubic metres.	The proposal entails the replacement of the existing 14m <sup>3</sup> underground storage tank with the installation of an additional three (3) 46m <sup>3</sup> underground storage tanks on Erf No. 9903.

The abovementioned list is hereinafter referred to as "**the listed activity**".

The holder is herein authorised to undertake the following alternative:

The proposal entails the conversion of an existing distribution centre to establish a filling station and associated infrastructure (pumps, dispensers, pipework, canopy, parking area) and the conversion of the existing building into a convenience store, restaurant and fast food outlet. The development will include the replacement of an existing underground fuel storage tank (14m<sup>3</sup>) with three 46m<sup>3</sup> underground storage tanks (total capacity 138m<sup>3</sup>), to the north of the existing building.

## C. SITE DESCRIPTION AND LOCATION

The listed activity will be undertaken on Erf No. 9903, Wellington, at the following co-ordinates:

Latitude (S)	Longitude (E)
33° 47' 14.58"	18° 28' 53.04"

The SG digit code is: C05500100000990300000 .

Refer to Annexure 1: Locality Plan

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

## D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Mills and Otten Environmental Consultants

% Ms S. de Beer

P. O. Box 84344

**GREENSIDE**

2034

Tel.: (011) 486 0062

Fax: (086) 554 6573

## **E. CONDITIONS OF AUTHORISATION**

### **Scope of authorisation**

1. The holder is authorised to undertake the listed activity specified in Section B above in accordance with, and restricted to, Alternative 1, described in the BAR dated March 2018 at the site as described in Section C above.
2. The holder must commence with the listed activity on site within a period of **five (5) years** from the date of issue of this Environmental Authorisation.
3. The development must be concluded within **10 years** from the date of commencement of the listed activity.
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 Competent Authority**

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

Conditions: 7 and 11

### **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 outcome of 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 Appeals 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; and
- 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; and
  - 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).
8. The listed activity, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notifies the registered I&APs of this decision. 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 activity, including site preparation, must not commence until the appeal is decided.

#### **Management of activity**

9. The draft Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.
10. 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"), or site agent where appropriate, before commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
12. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activity, and must be made available to anyone on request, including on a publicly accessible website.
13. 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.

#### **Auditing**

14. In terms of Regulation 34 of the NEMA EIA Regulations, 2014 (as amended), the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr and submit Environmental Audit Reports to the Competent Authority. The Environmental Audit Report must be prepared by an independent person and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).

The ECO must conduct fortnightly site audits. Bi-monthly ECO Audit Reports must be submitted to the Competent Authority for the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority three months after construction is completed.

The holder must, within 7 days of the submission of each of the above-mentioned reports 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. 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: 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; and/or graves or unmarked human burials including grave goods and/or associated burial material.

16. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.

### **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.
2. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with the listed activity within the period referred to in Condition 2, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the Competent Authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the Competent Authority prior to the expiry date of the Environmental Authorisation.
4. The holder must 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. If a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 (as amended) must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the Competent Authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:  
Amendments to the EMPr must be done in accordance with Regulations 35 to 37 of GN No. 326 of 7 April 2017 or any relevant legislation that may be applicable at the time.

Please note that to ensure the EMPr sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity, the Competent Authority may request amendments to the EMPr, as deemed necessary.

## **G. 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 on which 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 on which 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 Organs 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 Organs 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 Jaap de Villiers (Tel: 021 483 3721)  
Room 809  
8<sup>th</sup> 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 Jaap.DeVilliers@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 Jaap.DeVilliers@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



**MR. HENRI FORTUIN**

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)**

DATE OF DECISION: 6-7-18

CC: (1) Ms S. de Beer (Mills and Otten Environmental Consultants)  
(2) Ms C. Winter (Drakenstein Municipality)  
(3) Mr J. van Greunen (Landowner)

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## ANNEXURE 1: LOCALITY MAP



Figure 1: Locality map depicting the site on Erf No. 9903.

ANNEXURE 2: SITE PLAN

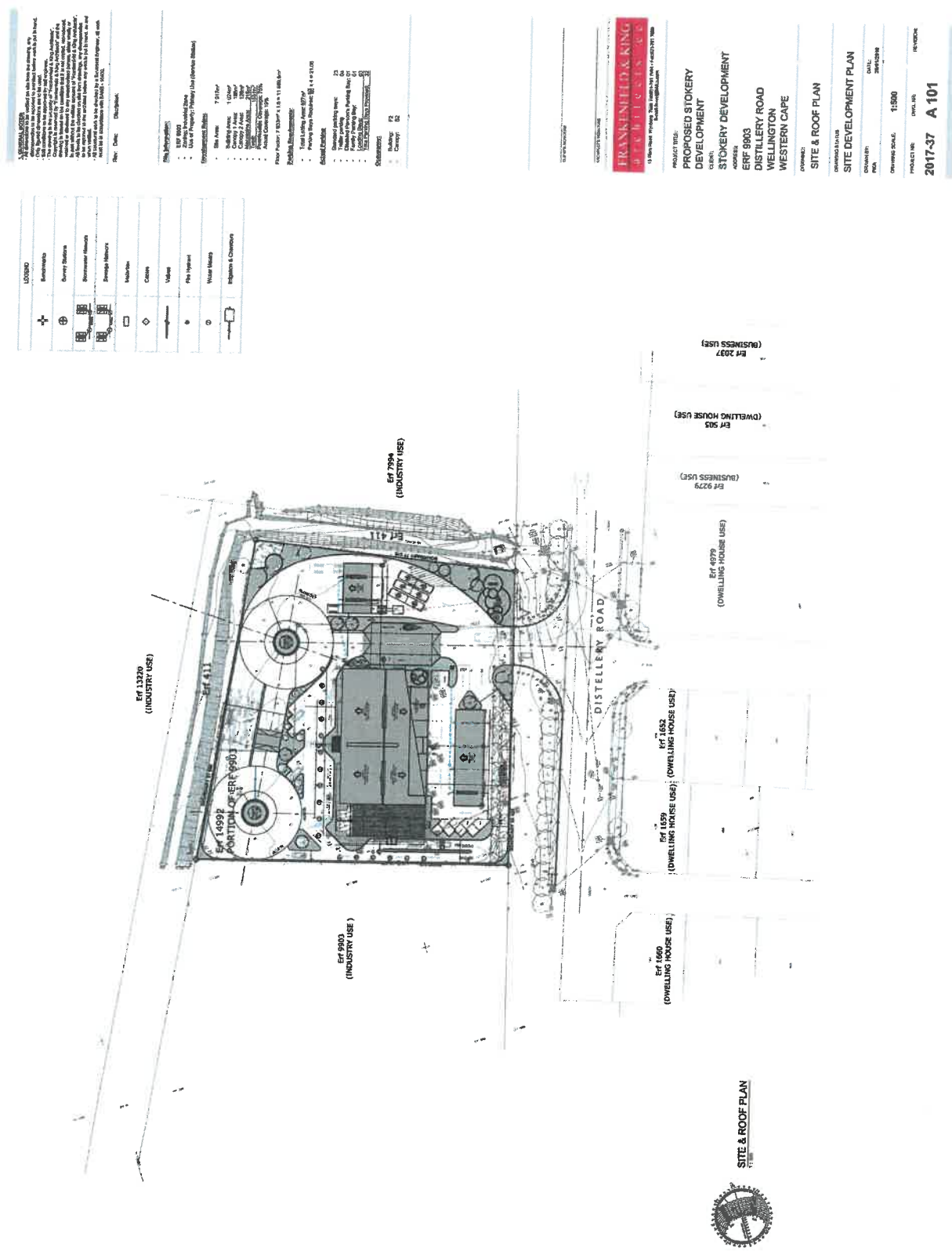


Figure 2: Site Layout Plan for the filling station.

## **ANNEXURE 2: REASONS FOR THE DECISION**

In reaching its decision, the Competent Authority considered, amongst others, the following:

- a) The information contained in the Application Form dated 7 February 2018, the final BAR dated March 2018 and the EMPr submitted together with the final BAR;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of NEMA;
- d) The comments received from I&APs and responses to these, included in the BAR dated March 2018; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

No site visits were conducted. 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 during 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;
- fixing notice boards at the site where the listed activity is to be undertaken on 7 February 2018;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activity is to be undertaken, the municipality and ward councillor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activity, on 7 February 2018;
- the placing of a newspaper advertisement in "Die Courant" on 7 February 2018; and
- making the BAR available to I&APs for public review from 21 February 2018.

All the concerns raised by I&APs were responded to during the public participation process. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr, in order to address the concerns raised.

The Competent Authority notes the Environmental Assessment Practitioner's responses to the issues raised during the public participation process, and has included appropriate conditions in this Environmental Authorisation, in the EMPr.

### **2. Alternatives**

Various property owners along the R44 were approached by the applicant to purchase a property for the establishment of a filling station, however, only the owner of Erf No. 9903 was willing to sell their property. In addition, due to the site being appropriately zoned and the site being strategically located, only one alternative (besides the "No-Go" Alternative) was assessed as part of the proposed development, which is described below.

#### Alternative 1 (Herewith Authorised):

The proposal entails the conversion of an existing distribution centre to establish a filling station and associated infrastructure (pumps, dispensers, pipework, canopy, parking area) and the conversion of the existing building into a convenience store, restaurant and fast food outlet. The development will include the replacement of an existing underground fuel storage tank (14m<sup>3</sup>) with three 46m<sup>3</sup> underground storage tanks (total capacity 138m<sup>3</sup>), to the north of the existing building.

This alternative is preferred since there are currently no filling stations within the vicinity and along the R44, which means both light and heavy vehicles no longer need to travel to the next town or divert from their travelling route to refuel.

#### "No-Go" Alternative

The "no-go" option was considered and is not preferred because it will not address the need for a filling station along the R44 and commuters will need to refuel in the next town or divert from their travelling route to refuel.

### **3. Impact Assessment and Mitigation measures**

#### 3.1 Activity need and desirability

Currently there are no filling stations along the R44 from Wellington travelling north towards Gouda. Both light and heavy vehicles that frequent the area, either have to make a detour from their travelling route or drive to the next town to refuel. As such, the proposed filling station will provide a more accessible and convenient alternative for commuters traveling along the R44. Furthermore, the site is located within an industrial area and is zoned for industrial use, which includes the establishment of a filling station.

#### 3.2 Biodiversity Impacts

The site is located with an industrial area, is currently operating as a distribution facility and has been completely transformed. There are no watercourses within or adjacent to the site.

The development will result in both negative and positive impacts.

#### **Negative Impacts:**

- There will be an increase in noise and dust impacts during the construction phase, however, mitigation measures for these impacts are addressed in the EMPr.

#### **Positive impacts:**

- The filling station will provide a much needed refuelling service for both light and heavy vehicles travelling along the R44.
- Travelling time for commuters will be reduced since there will be no need to deviate from the R44 to refuel.
- Employment opportunities will be created during the construction and operational phases for the development.

### **4. National Environmental Management Act Principles**

The NEMA 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 EMP, the Competent Authority is satisfied that the proposed listed activity will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the listed activity can be mitigated to acceptable levels.

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