



REFERENCE: 16/3/3/1/F5/16/2025/20
NEAS REFERENCE: WCP/EIA/0000768/2020
ENQUIRIES: RONDINE ISAACS
DATE OF ISSUE: 08 DECEMBER 2020

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED): PROPOSED ESTABLISHMENT OF A MIXED-USE DEVELOPMENT (INCLUDING A MALL, HOSPITAL AND ASSOCIATED INFRASTRUCTURE) ON A PORTION OF PORTION 3 OF FARM NO. 696, PORTION 4 OF FARM NO. 696 AND ERVEN RE/327, 2654 AND 11206, MALMESBURY.

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 NEMA and the EIA Regulations, 2014 (as amended), the competent authority herewith grants Environmental Authorisation to the applicant to undertake the list of activities specified in Section B below with respect to the preferred alternative as included in the Basic Assessment Report ("BAR") dated October 2020.

The granting of this Environmental Authorisation (hereinafter referred to as the "Environmental Authorisation") is subject to compliance with the conditions set out in Section E below.

A. DETAILS OF THE HOLDER OF THIS ENVIRONMENTAL AUTHORISATION

DevMark Development Services (Pty) Ltd.
c/o Mr. Jean-Pierre Nortier
P.O. Box 4985
BELLVILLE
7536
Tel.: (021) 048 3502
E-mail: jean-pierre@devmark.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

Listed Activity	Activity/Project Description
<p>Listing Notice 1 of the EIA Regulations, 2014 (as amended):</p> <p>Activity 9: <i>"The development of infrastructure exceeding 1000 metres in length for the bulk transportation of water or storm water -</i> <i>(i) with an internal diameter of 0,36 metres or more;</i> <i>or</i> <i>(ii) with a peak throughput of 120 litres per second or more;</i></p> <p><i>excluding where -</i> <i>(a) such infrastructure is for bulk transportation of water or storm water or storm water drainage inside a road reserve or railway line reserve; or</i> <i>(b) where such development will occur within an urban area".</i></p>	<p>Infrastructure exceeding 1000m in length for the bulk transportation of storm water will be established.</p>
<p>Activity 24: <i>"The development of a road -</i> <i>(i) for which an environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 in Government Notice 545 of 2010; or</i> <i>(ii) with a reserve wider than 13,5 meters, or where no reserve exists where the road is wider than 8 metres;</i></p> <p><i>but excluding a road -</i> <i>(a) which is identified and included in activity 27 in Listing Notice 2 of 2014;</i> <i>(b) where the entire road falls within an urban area; or</i> <i>(c) which is 1 kilometre or shorter".</i></p>	<p>A new traffic circle will be constructed with a new link road providing access to the development. A formal intersection between the link road and Piketberg Road will also be constructed. Portions of the access road fall within the N7 road reserve which is wider than 13.5m. Portions of the access road falls within areas currently not designated as road reserves and will be wider than 8m.</p>
<p>Activity 28: <i>"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:</i> <i>(i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or</i> <i>(ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;</i></p> <p><i>excluding where such land has already been</i></p>	<p>The proposed site was zoned for agricultural use on or after 01 April 1998 and is located outside an urban area.</p>

developed for residential, mixed, retail, commercial, industrial or institutional purposes".	
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Listed Activity	Activity/Project Description
<p>Listing Notice 3 of the EIA Regulations, 2014 (as amended):</p> <p>Activity 12: <i>"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.</i></p> <p>i. Western Cape</p> <ul style="list-style-type: none"> i. <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;</i> ii. <i>Within critical biodiversity areas identified in bioregional plans;</i> iii. <i>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;</i> iv. <i>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</i> v. <i>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".</i> 	<p>More than 300m² of critically endangered vegetation will be cleared.</p>
<p>Activity 18: <i>"The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre.</i></p> <p>i. Western Cape</p> <ul style="list-style-type: none"> i. <i>Areas zoned for use as public open space or equivalent zoning;</i> ii. <i>All areas outside urban areas:</i> <ul style="list-style-type: none"> (aa) <i>Areas containing indigenous</i> 	<p>A new traffic circle will be constructed with a new link road providing access to the development. A formal intersection between the link road and Piketberg Road will also be constructed.</p>

<ul style="list-style-type: none"> <li style="margin-left: 40px;"><i>vegetation;</i> <li style="margin-left: 20px;"><i>(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</i> <li style="margin-left: 20px;"><i>iii. Inside urban areas:</i> <ul style="list-style-type: none"> <i>(aa) Areas zoned for conservation use; or</i> <i>(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority".</i> 	
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The abovementioned list is hereinafter referred to as “the listed activities”.

The holder is herein authorised to undertake the following related to the listed activities:

The proposed project entails the establishment of a mixed-use development (including a mall, hospital and associated infrastructure) on a Portion of Portion 3 of Farm No. 696 (to be registered as Erf No. 11203), Remainder of Portion 3 of Farm 696, Portion 4 of Farm No. 696 and Erven RE/327, 2654 and 11206, Malmesbury.

The proposed development will include a retail centre, an outdoor retail area, restaurants, an auto dealership and other related outlets, parking areas, internal access roads and a 150-bed single storey hospital.

A new traffic circle will be constructed on the N7/Voortrekker Road off-ramp with a new link road which will provide access to the proposed development. The link road will be constructed on the existing showgrounds and road reserve (Erven RE/327 and 2654). A formal intersection between the link road and Piketberg Road will also be constructed. The bulk of deliveries will be handled between the N7 reserve and the north-south wing of the retail centre. A pedestrian link (left-out slip lane) will provide direct access to the entrance of the hospital. The hospital will be accessed via the N7 and Voortrekker Road.

The internal storm water system will comprise of an underground pipe network and a road-side channel and inlet structures which will drain the roads and other impermeable and semi-impermeable surfaces. Storm water from the developed areas will be routed to discharge into on-site attenuation tanks at two locations on low points on the site. The attenuation tanks will attenuate storm water runoff rates to protect the downstream watercourses and ecosystems. The attenuation tanks will be concrete/brick built tanks. The discharge from the two tanks will follow the pre-development runoff routes to eventually discharge eastward where it will follow the flow path of the natural stream.

The proposed development will connect to the existing water reservoir situated on the adjacent showgrounds. Booster pumps will be installed at the reservoir to pump water to the on-site domestic and fire tanks. The on-site booster pump set will provide the required pressure for domestic and fire purposes.

The electricity will be supplied from the Klipfontein Substation to an on-site brick-walled substation close to the main entrance gate. The Swartland Municipality has confirmed that the electrical load will be supplied from the Klipfontein Substation.

An area of approximately 1916m² of disturbed to semi-intact vegetation, in slightly worse condition than the excluded southern portion, will be cleared for the proposed traffic circle.

The total development footprint will be approximately 13ha in extent.

C. LOCATION AND SITE DESCRIPTION

The listed activities will take place on a Portion of Portion 3 of Farm No. 696, Portion 4 of Farm No. 696 and Erven RE/327, 2654 and 11206, Malmesbury.

The properties are located on the northern edge of Malmesbury, east of the N7, north of Voortrekker Road and west of Piketberg Road (R45). The properties are situated north of the existing showgrounds.

The SG 21-digit codes are:

Land parcel	SG 21-digit code
Erf No. 11203	C04600080001137000000
RE/3/696	C046000000000069600003
Erf No. 2654	C04600080000265400000
RE/327	C04600080000032700000
Portion 4 of Farm No. 696	C046000000000069600004
Erf No. 11206	C04600080001120600000

Co-ordinates:

Latitude: 33° 26' 28.47" S

Longitude: 18° 43' 17.68" E

Refer to Annexure 1: Locality Plan and Annexure 2: Site Plan.

hereinafter referred to as "the site".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER ("EAP")

Holland & Associates Environmental Consultants

c/o Mr. Ross Holland

P.O. Box 31108

TOKAI

7966

Tel.: (021) 712 9120

Fax: (086) 653 1765

E-mail: ross@hollandandassociates.net

E. 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 preferred alternative, described in the BAR dated October 2020 on the site as described in Section C above.
2. Authorisation of the activities is subject to compliance with the conditions set out in this Environmental Authorisation. The holder must ensure 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.
3. The holder must commence with, and conclude, the listed activities within the stipulated validity period which this Environmental Authorisation is granted for, or this Environmental Authorisation shall lapse and a new application for Environmental Authorisation must be submitted to the competent authority.

This Environmental Authorisation is granted for–

- (a) A period of ten (**10**) years, from the date of issue, during which period the holder must commence with the authorised listed activities; and
 - (b) A period of ten (**10**) years, from the date the holder commenced with an authorised listed activity, during which period the authorised listed activities for the construction phase, must be concluded.
4. The activities that have been authorised may only be carried out at the site described in Section C above in terms of the approved EMPr.
 5. Any changes to, or deviations from the scope of the description set out in Section B and Condition 2 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 such 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.

Notification of authorisation and right to appeal

6. The holder of the authorisation must in writing, within 14 (fourteen) calendar days of the date of this decision –
 - 6.1 notify all registered interested and affected parties (“I&APs”) of –
 - 6.1.1 the outcome of the application;
 - 6.1.2 the reasons for the decision;
 - 6.1.3 the date of the decision; and
 - 6.1.4 the date of issue of the decision;

- 6.2 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);
- 6.3 draw the attention of all registered I&APs to the manner in which they may access the decision; and
- 6.4 provide the registered I&APs with:
 - 6.4.1 the name of the holder (entity) of this Environmental Authorisation,
 - 6.4.2 name of the responsible person for this Environmental Authorisation,
 - 6.4.3 postal address of the holder,
 - 6.4.4 telephonic and fax details of the holder,
 - 6.4.5 e-mail address, if any;
 - 6.4.6 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 National Appeal Regulations, 2014 (as amended).

Commencement

7. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision.
8. In the event that an appeal is lodged with the Appeal Administrator, the effect of this Environmental Authorisation is suspended until such time as the appeal is decided. In the instance where an appeal is lodged the holder may not commence with the activity, including site preparation, until such time as the appeal has been finalised and the holder is authorised to do so.

Written notice to the competent authority

9. A minimum of 7 (seven) calendar days' notice, in writing, must be given to the competent authority before commencement of construction activities. Commencement for the purpose of this condition includes site preparation.
 - 9.1 The notice must make clear reference to the site details and EIA Reference number given above.
 - 9.2 The notice must also include proof of compliance with the following conditions described herein:
Conditions: 6, 7, 14, 24.2 and 24.5.

Management of activity

10. The draft Environmental Management Programme ("EMPr") dated September 2020 (as compiled by Holland & Associates Environmental Consultants) and submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.
11. An application for amendment to the EMPr must be submitted to the competent authority in terms of Chapter 5 of the EIA Regulations, 2014 (as amended) if any amendments are to be made to the outcomes of the EMPr,

and these may only be implemented once the amended EMPr has been authorised by the competent authority.

12. The EMPr must be included in all contract documentation for all phases of implementation.
13. A copy of the Environmental Authorisation and the EMPr must be kept at the site where the listed activities will be undertaken. Access to the site referred to in Section C above must be granted and, the Environmental Authorisation and EMPr 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. The Environmental Authorisation and EMPr must also be made available for inspection by any employee or agent of the applicant who works or undertakes work at the site.

Monitoring

14. The holder must appoint a suitably experienced Environment Control Officer ("ECO"), for the duration of the construction phase to ensure compliance with the provisions of the EMPr and the conditions contained in this Environmental Authorisation.

The ECO must–

- 14.1 be appointed prior to commencement of any construction activities commencing;
- 14.2 ensure compliance with the EMPr and the conditions contained herein;
- 14.3 keep record of all activities on site; problems identified; transgressions noted, and a task schedule of tasks undertaken by the ECO;
- 14.4 remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed;
- 14.5 provide the competent authority with copies of the ECO reports within 30 days of the project being finalized; and
- 14.6 be on site during the entire road upgrade component of the project.

Environmental audit reports

15. The holder must, for the period during which the Environmental Authorisation and EMPr remain valid -
 - 15.1 ensure that the compliance with the conditions of the Environmental Authorisation and the EMPr is audited;
 - 15.2 submit an environmental audit report three months after commencement of the construction phase to the relevant competent authority; and
 - 15.3 thereafter submit an environmental audit report every five (5) years while the Environmental Authorisation remains valid.
16. The environmental audit reports must be prepared by an independent person and must address the objectives and contain all the information set out in Appendix 7 of the EIA Regulations, 2014 (as amended).

In addition to the above, the environmental audit report, must -

- 16.1 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 extent to which the avoidance, management and mitigation measures provided for in the EMPr achieve the objectives and outcomes of the EMPr and highlight whether this is sufficient or not;
 - 16.2 identify and assess any new impacts and risks as a result of undertaking the activity;
 - 16.3 evaluate the effectiveness of the EMPr;
 - 16.4 identify shortcomings in the EMPr;
 - 16.5 identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
 - 16.6 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;
 - 16.7 include a photographic record of the site applicable to the audit; and
 - 16.8 be informed by the ECO reports.
17. The holder must, within 7 days of the submission of the environmental 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, where the holder has such a facility, be placed on a publicly accessible website.

Specific conditions

18. Surface or ground water must not be polluted due to any actions on the site. The applicable requirements with respect to relevant legislation pertaining to water must be met.
19. 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 waste disposal facility licensed in terms of the applicable legislation.
20. Should any heritage remains be exposed during excavations or any actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in accordance with the applicable legislation). 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 in accordance with the requirements of the relevant authority.

21. The holder of the Environmental Authorisation must, at all times, ensure that the activities comply with the Noise Regulations in terms of the relevant legislation.
22. The management of storm water runoff from the site must as far as possible be undertaken on the site through the use of permeable surfaces, re-use of runoff from built areas such as roofs, as well as the use of swales and litter traps.
23. Construction adjacent to the wetland area must take place during the drier months to prevent erosion and sedimentation of the downstream freshwater features.
24. In accordance with the recommendations provided in the Botanical Assessment Report dated October 2019 and compiled by Mr. G. Nicholson, the following must be implemented:
 - 24.1 The traffic circle must be moved as far as possible to avoid as much of the degraded to semi-intact vegetation. The southern renosterveld remnant may not be disturbed.
 - 24.2 A 'search and rescue' of all bulbs and succulents must be undertaken for the eastern renosterveld remnant prior to commencement of any construction activities.
 - 24.3 The bulbs and succulents must be used in the rehabilitation of the disturbed edges of the roads post-construction. Rescued specimen may also be relocated to the nearby Klipkoppie Nature Reserve.
 - 24.4 The ECO must be on site during the entire road upgrade component of the project.
 - 24.5 All indigenous vegetation remnants classified as degraded to semi-intact must be cordoned off before commencement of construction activities and must be regarded as no-go areas during construction.
 - 24.6 All areas adjacent to new roads that link with a vegetation remnant must be rehabilitated after the construction phase.
 - 24.7 The centre of the traffic circle must be landscaped by a restoration ecologist and only locally occurring indigenous species, including bulbs from the 'search and rescue', can be used.
25. All the conditions/recommendations/mitigation measures made by the various specialists involved in the EIA process, as contained in the approved EMPr, must be strictly implemented and adhered to.
26. Water saving mechanisms and/or water recycling systems must be installed in order to reduce water consumption that include *inter alia*, the following:
 - 26.1 Dual-flush toilet systems.
 - 26.2 All taps must be fitted with water saving devices, that is, tap aerators, flow restrictors and low flow shower heads.
 - 26.3 Water-wise landscaping must be done.
27. The development must incorporate energy/electricity saving measures, which include *inter alia*, the following:

- 27.1 Use of energy efficient lamps and light fittings. Low energy bulbs must be installed, and replacement bulbs must also be of the low energy consumption type.
 - 27.2 Street lighting must be kept to a minimum and down lighting must be used to minimize light impacts. Street lights must be switched off during the day.
 - 27.3 All geysers must be covered with geyser "blankets".
 - 27.4 The installation of solar water heaters and solar panels must be considered for all buildings.
28. The requirements of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), must be adhered to.

General matters

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. If the holder does not commence with the listed activities within the period referred to in Condition 3, this Environmental Authorisation shall lapse for the 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.
3. 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.

4. The manner and frequency for updating the EMPr is as follows:
Amendments to the EMPr, other than those mentioned above, must be done in accordance with Regulations 35 to 37 of the EIA Regulations, 2014 (as amended) or any relevant legislation that may be applicable at the time.
5. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to 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 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: Attention: Mr. Marius Venter
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 DEADP.Appeals@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. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DATE OF DECISION: 08 DECEMBER 2020

CC: (1) Mr. Ross Holland (Holland & Associates Environmental Consultants)
(2) Mr. J. Scholtz (Swartland Municipality)

E-mail: ross@hollandandassociates.net
E-mail: joggiescholtz@swartland.org.za

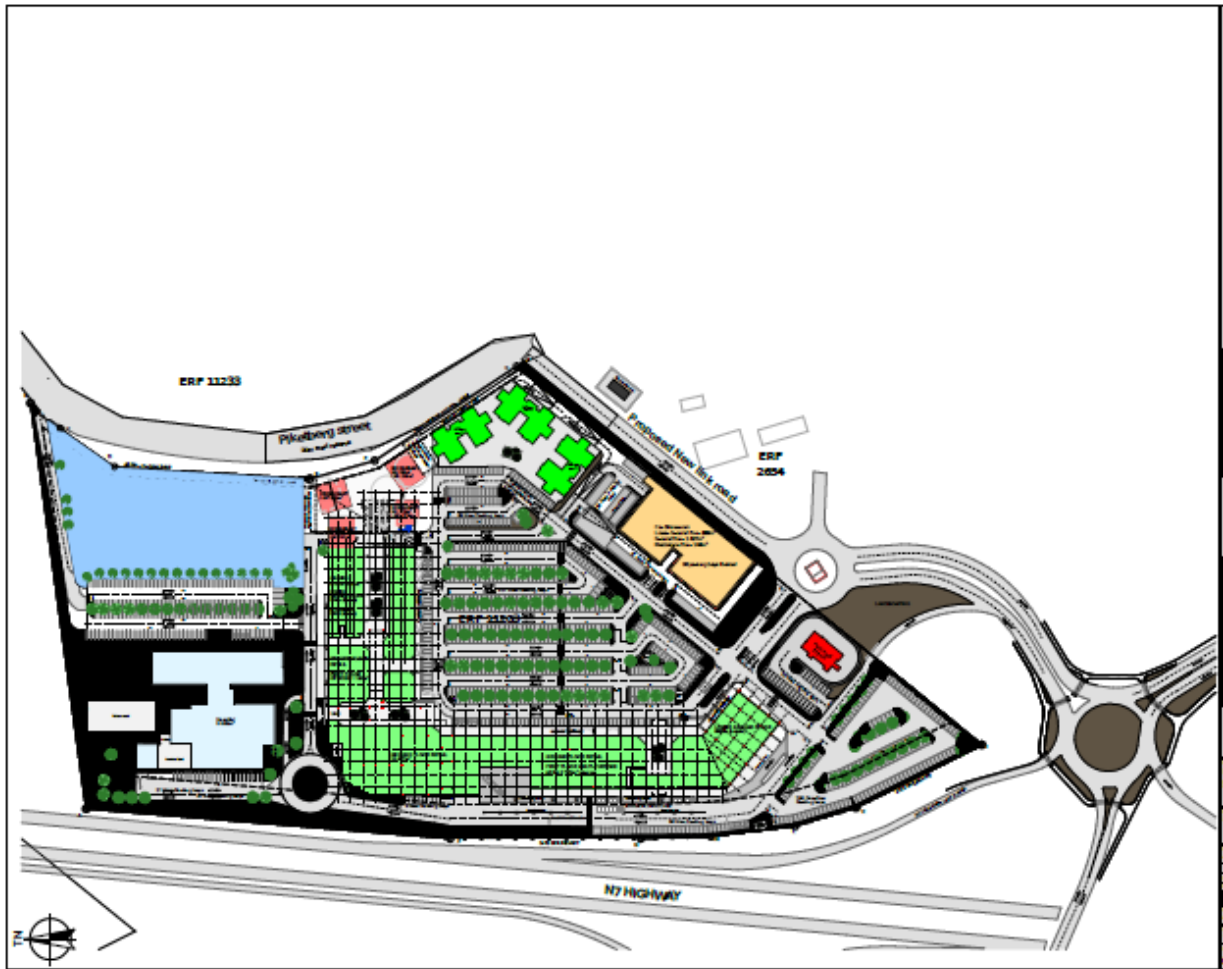
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ANNEXURE 1: LOCALITY PLAN



ANNEXURE 2: SITE PLAN



ANNEXURE 3: REASONS FOR THE DECISION

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

- a) The information contained in the Application Form dated and received by the competent authority on 23 July 2020; the BAR dated October 2020; the EMPr submitted together with the BAR; and the comment received from the Department of Agriculture, Forestry and Fisheries on 23 October 2020;
- b) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA;
- c) The comments received from I&APs and the responses provided thereon, as included in the BAR dated October 2020;
- d) The pre-application meetings held on:

Date: 16 July 2018

Attended by: Mr. Ross Holland and Ms. Emily Herschell of Holland & Associates Environmental Consultants; and Mr. Eldon van Boom and Ms. Rondine Isaacs of the Department of Environmental Affairs and Development Planning ("DEA&DP").

Date: 17 May 2019

Attended by: Mr. Ross Holland, Ms. Emily Herschell and Ms. Melanie van Niekerk of Holland & Associates Environmental Consultants; and Mr. Eldon van Boom, Ms. Rondine Isaacs, Ms. Jaqueta Keet and Mr. Luxolo Kula of the DEA&DP.

- e) An official of this DEA&DP visited the site on 08 December 2020.

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 which, according to the competent authority, were the most significant reasons for the decision is set out below.

1. Public Participation

The Public Participation Process comprised of the following:

- Letters were posted via normal and registered mail on 11 November 2019 to I&APs;
- Letter drops were conducted on 11 November 2019 to adjacent landowners and occupiers;
- An advertisement was placed in the "Swartland Gazette" newspaper on 12 November 2019;
- Notices were placed on site on 12 November 2019;
- E-mails were sent on 12 and 13 November 2019 to announce the availability of the pre-application BAR;
- A copy of the pre-application BAR was placed at the Malmesbury Public Library on 12 November 2019;
- The pre-application BAR was made available from 12 November 2019 until 13 December 2019;

- Letters, including an Executive Summary, were e-mailed on 06 August 2020 to advise registered I&APs about the availability of the post-application draft BAR;
- A copy of the post-application draft BAR was placed at the offices of CK Rumboll & Partners;
- The draft BAR was made available for download on the website of Holland & Associates Environmental Consultants;
- E-mails were sent on 31 August 2020 to remind I&APs of the deadline for comment on the post-application draft BAR; and
- The post-application draft BAR was made available from 07 August 2020 until 07 September 2020.

Authorities consulted

The authorities consulted included the following:

- West Coast District Municipality;
- Swartland Municipality;
- Department of Health;
- Western Cape Department of Agriculture;
- Department of Agriculture, Forestry and Fisheries;
- National Department of Agriculture, Land Reform and Rural Development;
- Western Cape Department of Economic Development and Tourism;
- CapeNature;
- Western Cape Department of Transport and Public Works;
- South African National Roads Agency Limited;
- Department of Water and Sanitation; and
- Heritage Western Cape.

The competent authority is satisfied that the Public Participation Process that was followed met the minimum legal requirements. All the comments and responses that were raised were included in the BAR.

2. Alternatives

The following design alternatives were investigated:

Traffic circle design:

Option 1:

The initial design included a road layout which did not consider the botanical sensitivities of the site. The traffic circle extended into a remnant of highly sensitive and critically endangered Renosterveld in a degraded to semi-intact condition. Option 1 was therefore discarded.

Option 2:

The layout design avoids the areas of high botanical sensitivity as much as possible. However, this alternative was discarded since it would result in the loss of approximately 3500m² of degraded to semi-intact critically endangered vegetation.

Option 3 (preferred option – herewith authorised):

The botanical specialist advised that the southern area of Renosterveld is the most valuable and must not be disturbed at all. Option 3 is thus preferred since it excludes the entire southern portion of Renosterveld. An area of approximately 1916m² of disturbed to

semi-intact vegetation, will be lost. However, this is considered the best practicable environmental option for the traffic circle.

Storm water pond design:

Option 1:

It was initially proposed to use the existing farm dam on Erf No. 11233 as a storm water pond. Option 1 was discarded since the landowner objected to the option as the existing dam, which is fed by a fountain, functions as a watering point for his horses.

Option 2:

A second dam below the existing dam was proposed. However, the freshwater study indicated that the second pond will fall largely within a highly sensitive aquatic area and result in unacceptable impacts on the downstream wetland area. Option 2 was therefore discarded.

Option 3:

This alternative entails enlarging the existing dam, avoiding as much of the highly sensitive area as practically possible, and pumping the fountain water via a pipeline from the fountain to a watering trough located outside the sensitive area. The fountain water would therefore be protected from contamination by storm water. Option 3 was discarded since consent could not be obtained from the landowner.

Option 4 (preferred option – herewith authorised):

The storm water system will consist of on-site storm water attenuation in tanks within the proposed mall and hospital site. Option 4 is preferred since it avoids the highly sensitive aquatic habitat, has no impact on vegetation and also has a lower impact on surrounding landowners. The impact on freshwater resources was reduced from a low negative significance to a very low negative significance.

Preferred alternative – herewith authorised:

The proposed project entails the establishment of a mixed-use development (including a mall, hospital and associated infrastructure) on a Portion of Portion 3 of Farm No. 696 (to be registered as Erf No. 11203), Remainder of Portion 3 of Farm 696, Portion 4 of Farm No. 696 and Erven RE/327, 2654 and 11206, Malmesbury.

The proposed development will include a retail centre, an outdoor retail area, restaurants, an auto dealership and other related outlets, parking areas, internal access roads and a 150-bed single storey hospital.

A new traffic circle will be constructed on the N7/Voortrekker Road off-ramp with a new link road which will provide access to the proposed development. The link road will be constructed on the existing showgrounds and road reserve (Erven RE/327 and 2654). A formal intersection between the link road and Piketberg Road will also be constructed. The bulk of deliveries will be handled between the N7 reserve and the north-south wing of the retail centre. A pedestrian link (left-out slip lane) will provide direct access to the entrance of the hospital. The hospital will be accessed via the N7 and Voortrekker Road.

The internal storm water system will comprise of an underground pipe network and a road-side channel and inlet structures which will drain the roads and other impermeable and semi-impermeable surfaces. Storm water from the developed areas will be routed to

discharge into on-site attenuation tanks at two locations on low points on the site. The attenuation tanks will attenuate storm water runoff rates to protect the downstream watercourses and ecosystems. The attenuation tanks will be concrete/brick built tanks. The discharge from the two tanks will follow the pre-development runoff routes to eventually discharge eastward where it will follow the flow path of the natural stream.

The proposed development will connect to the existing water reservoir situated on the adjacent showgrounds. Booster pumps will be installed at the reservoir to pump water to the on-site domestic and fire tanks. The on-site booster pump set will provide the required pressure for domestic and fire purposes.

The electricity will be supplied from the Klipfontein Substation to an on-site brick-walled substation close to the main entrance gate. The Swartland Municipality has confirmed that the 2.2MVA electrical load will be supplied from the Klipfontein Substation.

An area of approximately 1916m² of disturbed to semi-intact vegetation, in slightly worse condition than the excluded southern portion, will be cleared for the proposed traffic circle.

"No-Go" Alternative:

This alternative entails maintaining the *status quo* and as such, the proposed mixed-use development will not be established. This alternative was not deemed as preferred as the proposed development will augment the economic activities in Malmesbury, and the benefits to the holder and creation of jobs would not be realised. The "no-go" alternative is therefore not warranted.

3. Impacts, assessment and mitigation measures

3.1 Activity Need and Desirability

The holder considered a variety of sites for the proposed development. The site was selected as it is the most suitable for the following reasons:

- The site was subject to a previous application for environmental authorisation for a similar, but more extensive development, which culminated in the granting of an Environmental Authorisation in 2013. The previously authorised footprint covers approximately twice the area of the current proposed development site. The proposed development is therefore deemed appropriate.
- The Swartland Spatial Development Framework ("SDF") identifies the site as a new development node.
- The holder was able to secure agreements with the relevant landowners.
- The site is highly accessible for pedestrians as well as motorists, as it is situated adjacent to the N7 National Road.

Malmesbury serves as a connection point between four major transport routes in the area and is categorised as a regional service centre. The Western Cape Government has made the growing of the economy its primary objective and Policy E3 of the Provincial Spatial Development Framework ("PSDF") dated 2014 aims to revitalise and strengthen urban space economies as an engine of growth. The development of a mixed-use facility at a strategic and accessible location within Malmesbury is therefore aligned with the PSDF.

The proposed development aligns with all five Strategic Goals of the Swartland Municipality Integrated Development Plan ("IDP") (2017-2022).

The site falls within an urban area in the Municipality's Vision Map. Spatial Objective 1 of the SDF is to "*grow economic prosperity and facilitate economic sector growth*", which the proposed mixed-use development will contribute to. Spatial Objective 2 is listed as "*proximate, convenient and equal access*", which the proposed development provides due to its location along the N7 and the proposed pedestrian links. The medical facility and retail centre and restaurants contribute towards the achievement of Spatial Objective 3: "*sustain material, physical and social wellbeing*". The proposed development is also in line with Spatial Objective 4: "*Protect and grow place identity and cultural integrity*" since it is not expected to impact on heritage resources, and the architectural design of the buildings will be contemporary derived from historic Swartland farm styles. The proposed development's layout and design minimise environmental impacts, therefore the proposal is aligned with Spatial Objective 5: "*protect ecological and agricultural integrity*".

The site has been rezoned to Subdivisional area and is in line with the SDF. The proposed development is aligned with the Goals of the Swartland SDF (2017-2022) as follows:

- Develop mixed uses along activity corridors and streets (Voortrekker Road is identified as an activity corridor);
- Support and concentrate higher order development and mixed uses along activity corridors and streets;
- Develop Voortrekker Street as an important commercial axis and develop pedestrian mobility and commercial uses along this route;
- Develop innovative neighbourhood business nodes along activity routes that allow people access into the commercial sector;
- Support development of industrial/mixed-use next to the N7; and
- Malmesbury has a need for an expanded primary and secondary health facilities and a private healthcare facility must be developed.

The SDF recognises Malmesbury's importance as an area with substantial growth potential. The site has been classified by the Swartland Municipality as a development node, which will form part of the urban area once developed.

The proposed development falls within the wholesale and retail trade, catering and accommodation sector, and is the second most important contributor to the Municipality's economy.

According to the Growth Potential Study of the DEA&DP, the Swartland Municipality has a high growth potential. The growth potential study further classifies the town of Malmesbury as having a very high growth potential, exceeded by only 14 of the other towns in the Western Cape. In addition, Malmesbury is classified as having high absolute socio-economic needs whilst having medium proportional socio-economic needs.

Construction will constitute an injection of new expenditure. Given its size and the expenditure associated with it, the completion of the project has the potential to have a significant positive impact on commercial activity in the local area during

construction. These benefits will accrue mainly to construction businesses and associated artisans. The wholesale and retail trade and construction materials sectors will also stand to gain due to indirect linkages.

A substantial part of the construction expenditure will be retained locally, thus indicating a large economic multiplier. The local service industry would also benefit from the proposed development. The completion of the project will provide a major injection for contractors and workers in the area who in turn, will purchase goods and services in the Swartland Municipality and wider West Coast region, thereby leading to positive indirect impacts. Potential opportunities will be linked to accommodation, catering, cleaning, transport, and security etc. Potential opportunities are not limited to on-site construction workers, but also to consultants and product representatives associated with the project.

Management and maintenance of the shopping mall and showroom is likely to generate between 30 to 40 fulltime jobs. Employment generated by tenants occupying the shopping mall is likely to be in the region of between 240 and 260 jobs, with a further 50 – 70 jobs being generated by the showroom.

3.2 Biophysical Impacts

Impacts on vegetation

The habitats identified on the site are as follows:

- Intact vegetation;
- Semi-intact vegetation;
- Degraded vegetation;
- Highly degraded vegetation; and
- Transformed areas.

Portion of Portion 3 of Farm No 696 is currently planted with vines and there are no structures apart from fences and supportive infrastructure for vines.

The areas of the roads and traffic circle fall in a Critical Biodiversity Area 1 ("CBA1"), while the mall and hospital fall outside of any CBA's or Ecological Support Area ("ESA").

The mall and hospital will be located in an area that is currently a vineyard. Very small patches of highly degraded vegetation adjacent to the mall and hospital footprint may be lost, however, these are not considered significant. The only indigenous species are hardy shrubs.

The mall and hospital area are considered to be of low botanical sensitivity for the following reasons:

- Very few indigenous species occur and those present are mainly pioneer species that recolonise previously disturbed areas;
- Only highly degraded vegetation will be disturbed. A part of the detention pond is classified as a CBA1 however, the area is not intact.
- The vegetation contains a number of bulb species, however, these are all common species known to occur in degraded areas and no species of conservation concern were found;
- No special terrestrial habitats would be impacted;

- The rehabilitation potential is low to very low (*i.e.*, the vineyards); and
- No fragmentation or loss of connectivity will occur.

The proposed new traffic circle and associated roads will impact on indigenous vegetation. The vegetation condition of the affected areas includes habitat categories that are transformed, highly degraded and degraded, to semi-intact.

The transformed areas contain no indigenous species and are either devoid of vegetation or contain invasive species such as black wattle, Port Jackson willow and gum trees.

The highly degraded areas have been significantly impacted on and contain indigenous and alien species. Exotic weedy species such as wild oats, rygrass, fountain grass and Paterson's curse are common. Indigenous pioneer species such as renosterbos, wild rosemary and mouse dewfig are also dominant. No species of conservation concern were found in these areas or are expected to occur.

The degraded to semi-intact areas improve in condition the further away they are from the road. The degraded areas are dominated by indigenous species such as the disseldoring and renosterbos, but also contain exotic grasses such as fountain grass. However, the species diversity is very low.

The semi-intact vegetation has not been burnt for a long time and is therefore dominated by large specimen of wild rosemary and renosterbos. The high diversity of other species such as smaller shrubs, succulents and bulbs are found among the large shrubs. The species diversity is expected to be high. At least four species of conservation concern were found in vegetation fragments surrounding Option 1. These are *Babiana odorata* (Endangered), *Lamprantus dilutus* (Endangered), *Aspalathus aculeate* (Vulnerable) and *Phyllica strigulosa* (Vulnerable). Other species of conservation concern found within the surrounding area include *Lotononis prostrata* (Near Threatened) and species identified by Helme (2007) such as *Agathosma glandulosa* (Endangered) and the range restricted *Treichelia dodii* (Endangered).

The vegetation in the road footprint is considered to be of high botanical sensitivity for the following reasons:

- The vegetation fragments include indigenous vegetation that is semi-intact in some areas;
- The ecosystem threat status of the vegetation type is Critically Endangered (A1 & D1);
- At least four species of conservation concern are found adjacent to the existing roads;
- Parts of the area are classified as a CBA1 and are semi-intact;
- The rehabilitation potential of these areas is moderate to high; and
- No further fragmentation of habitat would occur, but the already highly fragmented vegetation remnants will be further degraded.

Approximately 1916m² of degraded to semi-intact renosterveld vegetation will be cleared for the proposed traffic circle. This loss represents 0.016% of the remaining intact Swartland Granite Renosterveld area.

The traffic circle and access road will impact on degraded to semi-intact Critically Endangered Renosterveld within a CBA1. The botanical specialist confirmed that the impact will be of medium significance, since the preferred alternative avoids the most sensitive areas. It is thus not anticipated that the proposed development will cause misalignment of the area's conservation goals.

The vegetation in the vicinity of the initially proposed storm water pond is highly degraded. Wetland species such as Cape bulrush occur in and around the pond and the wall of the pond and surrounding areas are dominated by weedy species. A number of indigenous bulbs were found to the south of the existing dam, most of which are known to occur in previously disturbed areas. A stand of gum trees is located in the northwest of the dam.

Impacts on freshwater features

The site is in a highly disturbed condition with no evidence of any wetland systems or drainage channels, other than artificial storm water channels that convey surface water runoff. The only aquatic feature is located downslope of the site (Klipfontein tributary of the Diep River with its associated seep and valley bottom wetland area). One of the springs at the head of the valley bottom wetland area has been developed into a dam for watering of horses.

The tributary has been modified at its point of origin by a small dam below vineyards on the Piketberg Road. A dam was constructed in the upper seep source area and is dominated by bulrush reeds and *Cyperus textilis*, with gum trees and Port Jackson willows bordering on the riparian zone. The hillslope seep wetland develops into a seasonal longitudinal or valley-bottom wetland, which becomes increasingly riverine and canalised downstream. Indigenous plants that occur in the wetland are sedges, bulrush, reeds, rushes, arum lilies, watsonias, sand olives, ganggras and *Moraea* sp. There are also some alien plants that are invading the riparian zone adjacent to the wetland.

Parts of the seep and downstream valley-bottom wetland have been disturbed by agriculture, grazing, trampling and impedence and diversion of flow. However, the core wetland area is relatively undisturbed. The lower section of the stream contains kikuyu grass which dominates both banks.

Summary of biophysical impacts

The proposed project will not result in any unacceptable biophysical impacts with the implementation of the recommendations of the specialists and mitigation measures which were included as conditions in this authorisation and the implementation of the EMPr. No impacts of high negative significance will occur after mitigation is implemented.

The loss of approximately 1916m² of Critically Endangered vegetation in a disturbed to semi-intact condition has been mitigated through design alternatives to a level of medium negative significance.

The preferred alternative avoids the best condition vegetation found on the southern side of the traffic circle, and most of the species of conservation concern resulting in an impact of medium negative significance with mitigation.

The freshwater specialist study found that the risk of the proposed works altering the ecological status of the downstream aquatic features is considered to be low for the construction and operational phases. With mitigation, the significance of impacts can be lowered to a very low negative significance rating.

The storm water management measures will be contained on-site, thereby eliminating the potential aquatic impacts on the downstream Klipfontein Tributary and its associated wetland areas. The potential aquatic impacts of the proposed development will thus be further reduced. The significance of the aquatic ecosystem impacts is therefore deemed to be very low.

3.3 Socio-economic impacts

An Environmental Authorisation was previously granted to a different holder in 2013 to develop a larger project with similar components (including a mall development of 96 986m², a gym/retail development of 22 022m², a lifestyle centre of 25 698m², freehold cluster housing of 17 733m², sectional title apartments of 7978m², a clinic of 150 beds or 12150m² and an office park of 15 310m² with a total development footprint of 197 877m²). This would be developed on 35ha of land including the current site as well as an adjacent piece of land.

This proposed development is considerably smaller than the previous project which received Environmental Authorisation in 2013.

This proposed development is compatible with the relevant socio-economic development policy and associated spatial planning for the area. Expenditure and employment related impacts resulting from the construction phase will have significant positive socio-economic implications at the local and regional scale.

The proposed project will result in a significant commercial node developing in the northern part of Malmesbury. The Municipality is in support of developing retail capacity in the vicinity of the site and thus does not consider the project to pose substantial risk to businesses located in the Central Business District ("CBD"), or to the commercial longevity of the CBD.

3.4 Storm water impacts

All storm water infrastructure will be located and managed on-site. The internal storm water system will comprise of an underground pipe network and a road-side channel and inlet structures which will drain the roads and other impermeable and semi-impermeable surfaces.

Storm water from the developed areas will be routed to discharge into on-site attenuation tanks at two locations on low points on the site. The attenuation tanks will attenuate storm water runoff rates to protect the downstream watercourses and ecosystems. The attenuation tanks will have an outlet structure to govern the discharge into the downstream watercourse at a 1:5-year pre-development rate, via the pre-development runoff routes.

The attenuation tanks will be concrete/brick built tanks. The discharge from the two tanks will follow the pre-development runoff routes to eventually discharge eastward where it will follow the flow path of the natural stream.

The site will have emergency overflows into the existing watercourse which will have the capacity to discharge the runoff generated from rainfall events larger than 1:50 years, up to a maximum of a 1:100-year rainfall event. The emergency overflow channel will be lined with armorflex blocks to prevent erosion.

Catch pits will be constructed to trap debris and sand. The traps will reduce the amount of suspended solids in the storm water runoff and will also act as a litter trap.

3.5 Traffic impacts:

There is currently no formal access to the site, only a gravel access road is available via Voortrekker- and Piketberg Roads. These informal gravel/farm accesses will be closed as part of the proposed development.

The major roads in the vicinity include:

- N7 National Road (NR7/2): Two lanes per direction, a wide median island, no on-street parking and no sidewalks;
- Voortrekker Road (MR174): Single lane per direction, no on-street parking and no sidewalks; and
- Piketberg Road (DR1149): Single lane per direction, no parking or sidewalks. The road is surfaced south of the development erf boundary but a gravel road along, as well as, north of the development.

All study intersections currently operate at acceptable Levels-Of-Service and delay. Hence, no road upgrades are required from an intersection capacity point of view.

The following three site accesses are proposed:

- Two accesses are proposed from Link Road. This road will be classified as a Class 3 Road, within an Intermediate Road Side Environment, after the completion of the mall and hospital.
- One access is proposed from Piketberg Road. This road could be classified as a Class 3 Road, within an Intermediate Road Side Environment, after the completion of the mall and hospital.

Based on the 2024 Total Traffic capacity analysis results, all study intersections will operate acceptably.

National Environmental Management Act Principles

The National Environmental Management Act 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.

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 NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

You are reminded of your general duty of care towards the environment in terms of Section 28(1) of the NEMA which states: *"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."*

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