



24G Application: 14/2/4/2/1/A1/12/0030/21

ENVIRONMENTAL AUTHORISATION

The Trustees

Treasure Ash Trust

PO Box 21

KILLARNEY GARDENS

7441

Email: ashwin@worldfocusgas.co.za

Tel: (021) 556 4433

Attention: Ashwin Sewpersad

Dear Sir

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITY: THE UNLAWFUL INSTALLATION OF INFRASTRUCTURE FOR HANDLING AND STORAGE OF DANGEROUS GOODS AT ERF 35177, RACING PARK, KILLARNEY GARDENS

With reference to your application dated 22 November 2021 in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

A. DECISION

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activity specified in Section C below in accordance with the preferred alternative in the section 24G application dated 22 November 2021.

The granting of this Environmental Authorisation is for the continuation, conducting or undertaking of the listed activity as described in Section C below and is subject to compliance with the conditions set out in Section G. This Environmental Authorisation shall only take effect from the date on which it has been issued.

The Environmental Authorisation does not exempt the holder thereof from compliance with any other applicable legislation.

B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Treasure Ash Trust
c/o Mr Ashwin Sewpersad
PO Box 21
KILLARNEY GARDENS
7441

Tel: (021) 556 4433
Email: ashwin@worldfocusgas.co.za

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

C. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
Government Notice No. R327 of 2014 – Activity Number: 14 Activity Description: <i>"The development 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."</i>	The installation of an additional storage tank and upgrading of existing storage tanks in 2020 exceeds 80m ³ .

The abovementioned list is hereinafter referred to as “the listed activity”.

D. PROPERTY DESCRIPTION AND LOCATION

The listed activity commenced on Erf 35177, 1 Cosworth Crescent, Killarney Gardens, City of Cape Town.

The SG digit code is: C01600340003517700000

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 48' 47.13" South	18° 32' 13.74" East
2	33° 48' 47.72" South	18° 32' 14.90" East
3	33° 48' 48.75" South	18° 32' 14.04" East
4	33° 48' 48.08" South	18° 32' 13.12" East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 48' 47.13" South	18° 32' 13.74" East
2	33° 48' 47.72" South	18° 32' 14.90" East
3	33° 48' 48.75" South	18° 32' 14.04" East
4	33° 48' 48.08" South	18° 32' 13.12" East

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

Herein-after referred to as “the site”.

E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (“EAP”)

MSEC Environmental Consultants

C/o Ms Monique Sham

165 Main Road

Muizenberg

7945

Cell: (072) 989 5119

Email: monique@ms-ec.co.za

F. DETAILS OF THE ACTIVITY/IES UNDERTAKEN

The commenced activity entails the unlawful installation of infrastructure for the handling and storage of dangerous goods at Erf 35177, Racing Park, Killarney Gardens.

The original tank installations occurred in 2016. However, the total quantity for storage of fuel did not trigger the listed activity as the combined capacity of the storage tanks on the site totalled 79m³.

The upgrade to the existing tanks and installation of the additional 23m³ underground storage tank occurred in late 2020.

There are now five tanks on the premises after the upgrades and installation. These include the following:

- Above ground tank of 23m³ for the storage of diesel 500 PPM
- Above ground tank of 46m³ for the storage of diesel 50 PPM
- Above ground tank of 23m³ for the storage of paraffin
- Above ground tank of 10m³ for the storage of diesel 10 PPM
- Underground tank of 23m³ for the storage of M95 Unleaded

With the additional 46m³, this results in a total of 125m³ of fuel storage tanks at the facility.

G. CONDITIONS OF AUTHORISATION

The following are conditions of authorisation that are set and must be implemented for this Environmental Authorisation.

PART I

Scope of authorisation

1. The holder is authorised to undertake the listed activity specified in Section C above in accordance with and restricted to the preferred alternative described in the application and assessment report dated 22 November 2021 on the site as described in Section D above.
2. 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.
3. Any changes to, or deviations from the scope of the alternative described in Section F 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 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.

PART II

Written notice to the competent authority

4. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of commencement of the construction activities.
 - 4.1 The notice must make clear reference to the site details and 24G Reference number given above.
 - 4.2 The notice must also include proof of compliance with the following condition: Condition 5

PART III

Notification and administration of an appeal

5. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 5.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 5.1.1 the outcome of the application;

- 5.1.2 the reasons for the decision as included in Annexure 3;
- 5.1.3 the date of the decision; and
- 5.1.4 the date when the decision was issued.

5.2 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* detailed in Section I below.

5.3 draw the attention of all registered I&APs to the manner in which they may access the decision.

5.4 provide the registered I&APs with:

- 5.4.1 the name of the holder (entity) of this Environmental Authorisation;
- 5.4.2 name of the responsible person for this Environmental Authorisation;
- 5.4.3 postal address of the holder;
- 5.4.4 telephonic and fax details of the holder;
- 5.4.5 e-mail address, if any, of the holder; and
- 5.4.6 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*.

6. The listed activity, including site preparation, may not commence within 34 (thirty-four) calendar days from the date of issue of this Environmental Authorisation. 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.

PART IV

Management of the activity/development

7. The draft Environmental Management Programme ("EMPr") of November 2021 compiled by MSEC Environmental Consultants and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

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

PART V

Monitoring

9. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") or site agent where appropriate, before continuation of commencement of any maintenance 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 activity and must be made available to anyone on request.
11. Access to the site referred to in Section D 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.

PART VI

Auditing

12. In terms of regulation 34 of the *EIA Regulations, 2014* the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr and the closure plan (where applicable) and submit Environmental Audit Reports to the competent authority annually and upon receiving such request in writing from the competent authority. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014*.

PART VII

Activity/ Development Specific Conditions

13. 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.

14. 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.
15. No pollution of surface water or ground water resources may occur due to any activity on the property.
16. Water emanating from the site should not be directly disposed of into any stormwater channel or the receiving environment, but rather into the tank/separator where it can be treated prior to disposal or re-used on-site.

H. 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 or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
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* 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 must be done in accordance with regulations 35 to 37 of the *EIA Regulations, 2014* or any relevant legislation that may be applicable at the time.

I. APPEALS

Appeals must comply with the provisions contained in the *National Appeal Regulations, 2014*.

1. An appellant (if the holder) must –
 - 1.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator and a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder was notified by the competent authority of this decision.
2. An appellant (if NOT the holder) must –
 - 2.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator, and a copy of the appeal to the holder, any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder notified the registered I&APs of this decision.
3. The holder (if not the appellant), the decision-maker, I&APs and 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. This appeal and responding statement must be submitted to the address listed below -
 - By post: Attention: Marius Venter
Western Cape Ministry of Local Government, Environmental Affairs & Development Planning
Private Bag X9186, Cape Town, 8000; or
 - 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, 8000; or
 - By e-mail: DEADP.Appeals@westerncape.gov.za

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator to the address listed above and/ or via e-mail to DEADP.Appeals@westerncape.gov.za.

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

J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS

Non-compliance with a condition or term of this Environmental Authorisation or EMPr may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

K. DISCLAIMER

The Western Cape Government, 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.

Yours faithfully

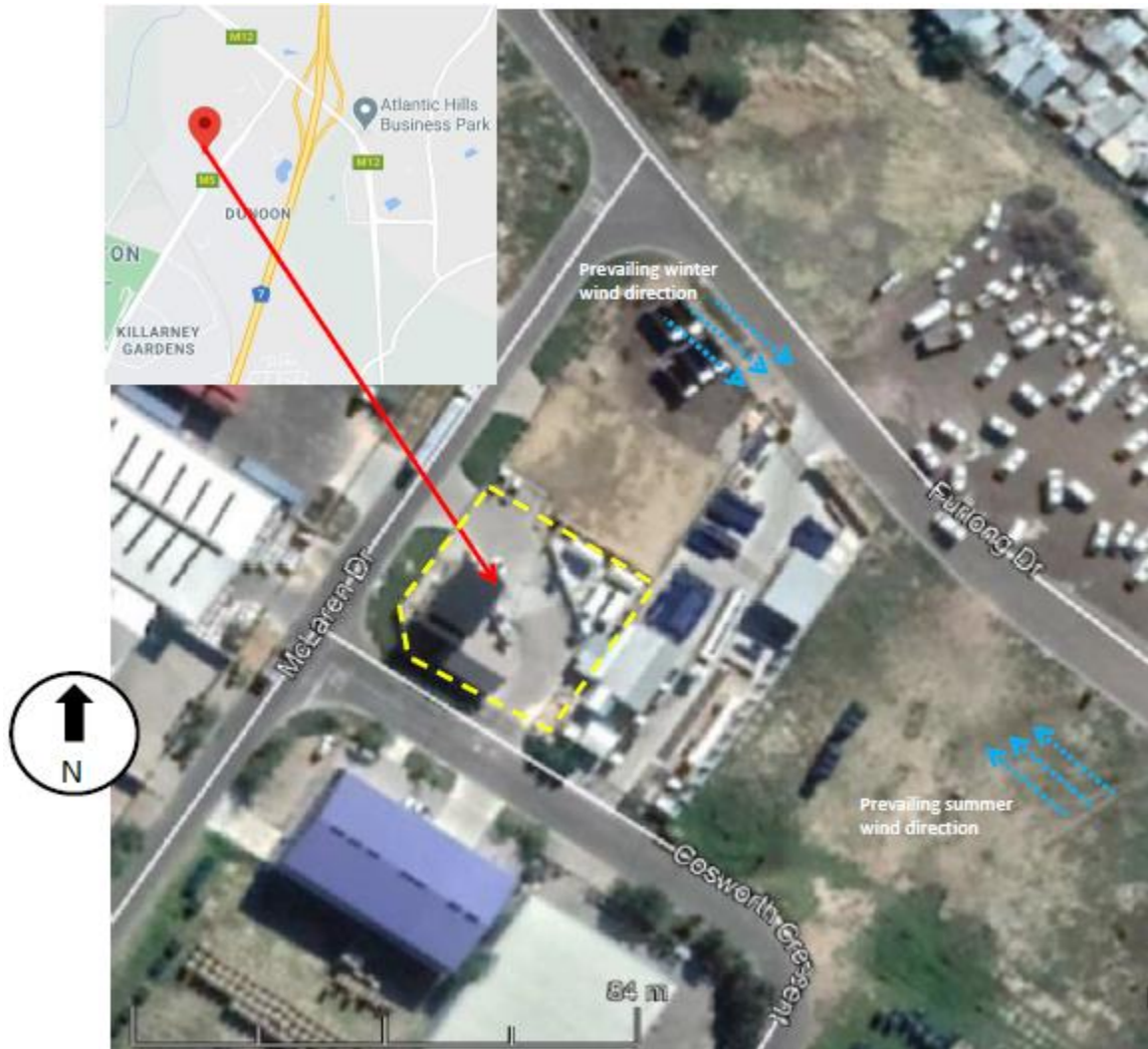
ADV. CHARMAINE MARÉ
DIRECTOR: ENVIRONMENTAL GOVERNANCE

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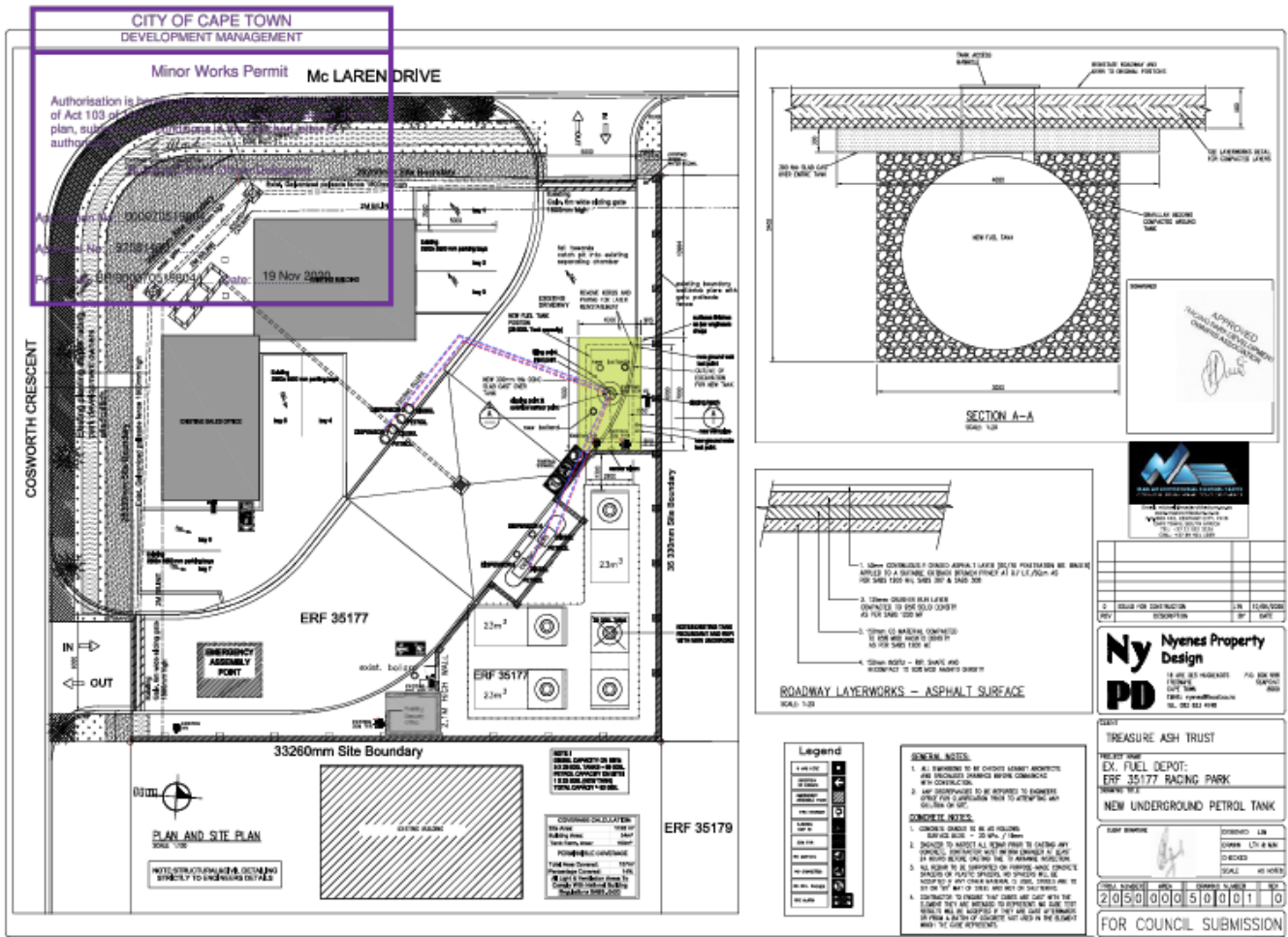
(1) Monique Sham (EAP)

Email: monique@ms-ec.co.za

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE PLAN



FOR OFFICIAL USE ONLY:

S24G REFERENCE:

14/2/4/2/1/A1/12/0030/21

ANNEXURE 3: REASONS FOR THE DECISION

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned illegal activity. An Environmental Assessment Practitioner ("EAP") was appointed to submit a section 24G Environmental Impact Assessment ("EIA") to the Department to obtain this Environmental Authorisation. The EIA was considered adequate for informed decision-making. In addition, the holder paid an administrative fine of R50 000 (Fifty thousand Rand) to meet the requirements of section 24G of the *National Environmental Management Act, 1998* ("NEMA").

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

- a) The information contained in the application form dated 22 November 2021 and received by the competent authority on 23 November 2021.
- b) The Environmental Management Programme ("EMPr") of November 2021 submitted together with the application form.
- c) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- d) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- e) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- f) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- g) The site visit conducted on 09 March 2022 attended by officials of the Directorate: Environmental Governance.

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 Process

In terms of section 24G(1) (vii) (dd) of the NEMA, "...a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed ...", is required.

The public participation process conducted by the EAP comprised of the following:

- identification of and engagement with I&APs.
- fixing a notice board at the site where the listed activity unlawfully commenced.
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activity was undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activity on 20 May 2021.
- the placing of a newspaper advertisement in the **Table Talk** on 19 May 2021.
- I&APs were afforded the opportunity to provide comments on the application.

Consultation with organs of state in terms of section 24O of the NEMA

The following organs of state provided comment on the application:

- CapeNature (CN)
- City of Cape Town: Spatial Planning & Environment (CoCT: SP&E)
- Pollution and Chemical Management (PCM)
- Heritage Western Cape (HWC)
- Department of Water and Sanitation (DWS)

CapeNature stated that, considering the completely transformed (paved and developed) nature of the site, there is negligible impact to biodiversity. The conclusions of the site verification report are accepted.

Regarding the soil and groundwater impacts, CN indicated that the applicant should provide a geohydrological specialist compliance statement to support and/or enhance the mitigation measures currently in place.

The CoCT indicated that, given that there will be an increase in the on-site storage capacity of dangerous goods (i.e., fuel storage) it is recommended that a Risk Assessment be conducted to determine if the site would be declared a Major Hazardous Installation (MHI).

The applicant must submit plans to the Building Development Management Department in terms of SANS 10400: T:2020 and the Fire Safety Community By-Law of 2002 prior to the approval of the tanks.

From an air quality perspective, the activities currently being conducted on site does not require authorisation in terms of the City's Air Quality Management Bylaw, 2016, or the *National Environmental Management Air Quality Act, 2004* (Act 39 of 2004) (NEM: AQA). Air quality impacts for example, possible emissions from vent pipes during product loading, fumes from diesel vehicles, etc. must be included in the EMPr for the site. The utilisation of the tanks must not cause any air quality related nuisances during its operations.

The pipes and breather vents connected to the fuel storage tanks must be positioned in such a manner so that no odour nuisances are emitted into the atmosphere. In this regard, an Odour Management Plan must be devised, implemented and monitored on a daily basis. Please note that this plan must form part of the EMPr.

After careful consideration, it was observed that the noise generated from the facility is very low. The noise impact will not be a problem to the surrounding industrial premises in the area and to the closest domestic dwellings, provided that it does not cause a Disturbing Noise as laid out in the Noise Control Regulations, PN 200/2013 Regulation 4.

Any overflow from the property shall be managed on the property and must be diverted through an oil separator prior to discharge into the municipal stormwater system. The new infrastructure does not require additional water use. Therefore, it has no impact on the existing water and sewer infrastructure.

The groundwater level is 9.6m (per Cape Farm Mapper) so the groundwater was not impacted during the installation of the underground tank as the tank is only 3.5m below ground. The EMPr does not investigate mitigation measures to address traffic congestion particularly on Cosworth Crescent, McClaren Drive and on-site at the respective fuel filling points.

The Directorate: PCM highlighted that water emanating from the site should not be directly disposed of into any stormwater channel or the receiving environment (given that the water could be contaminated), but rather into the tank/separator where it can be treated prior to disposal or re-use on-site.

It is recommended that the area beneath and surrounding the old tanks is sampled to determine if any possible contamination exists. The EAP indicated that all Norms and Standards required by the industry have been complied with, including all SANS requirements. The combined storage of 125m³ of hydrocarbon fuel, does pose a potential risk to groundwater resources, in the event of a significant leak or spill.

The installation of monitoring wells around the entire tank farm (and potentially at strategic locations across the site and/or off-site) is recommended for leak detection, as observation wells and for monitoring purposes. The EAP responded that there are two dipping hatches whereby one can access any retained water/leaks for soil or water integrity.

It was recommended that the site layout plan include the location of the oil/water separator and the positions of all groundwater monitoring wells on site.

Effective management, protection and monitoring are required on site in order to avoid and mitigate contamination risk and any potential water, soil and groundwater impacts. A list of general recommendations was provided.

The DWS indicated that no pollution of surface water or ground water resources may occur due to any activity on the property. It is recommended that the monitoring borehole(s) be established downgradient of the underground storage tank(s) and monitored bi-annually. The samples must be submitted to SANAS accredited laboratories for analysis for Hydrocarbons (including but not limited to the following: BTEXNM+TAME and TPH). All parameters analysed for should be included in the SANAS Schedule of Accreditation of the laboratory.

HWC indicated that the provisions of Section 38 are not applicable and therefore no further action in terms of the *National Heritage Resource Act, 1999 (Act 25 of 1999)* is required.

2. Alternatives

2.1 Technology/Location/Site/Activity Alternatives

Alternative 1 (Herewith authorized)

The site already functioned as a storage facility for the storage of dangerous goods and had available space for expansion. Therefore, alternative sites/locations were not feasible. The installation of the underground tanks and extension of existing tanks were done in compliance with all industry and best practise standards. An alternative design is therefore not applicable.

2.2 The option of not implementing or continuing with the activity ("No-Go" Alternative)

The site already operated as a facility for the storage and distribution of dangerous good facility prior to the commencement of the unlawful activity. Decommissioning of the facility would arguably result in more environmental damage than the continued existence of the facility.

3. Environmental Impact Assessment (EIA) and Mitigation Measures

In reaching its decision, the competent authority, considered the following in respect of the EIA and mitigation measures:

3.1. Regional/ Planning Context

The facility is within a planned and existing industrial development and therefore does not compromise the Western Cape's Integrated Development Plan (IDP) as well as the City of Cape Town municipal Spatial Development Framework and IDP. The facility services the surrounding industrial area, as well as a nearby taxi rank. There are no nearby filling stations. With the nearest station being approximately 2.5km to the south.

3.2. Biophysical Impacts

The facility was existing and operational before the commencement of the listed activity. Additionally, SANS Standards, including pollution mitigation, control and safety measures, are in place for all tanks found on site. The tanks are installed within an adequately bunded area.

3.3. Biodiversity Impacts

The site was already previously transformed within an industrial area zoned as general industrial 1. Additionally, no loss of biodiversity occurred on site with the commencement of the listed activity.

3.4. Visual / Sense of Place

the facility is located within an already transformed area with existing light industrial land use. The site is zoned as general industrial 1 and was operational before the commencement of the listed activity.

4. **NEMA 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.

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 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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