

## **APPENDIX F3 – PUBLIC PARTICIPATION C&R REPORT**

## PRE-APPLICATION COMMENT AND RESPONSE TRAIL REPORT PROPOSED DEVELOPMENT OF A FILLING STATION AND BUSINESS PREMISES ON ERF 1071, CHATSWORTH

(DEA&DP Ref. No: 16/3/3/6/7/1/F5/4/2040/22)

### APPLICANT: Swartland Municipality

Pre-application public participation comment period started 09 November 2021 and ended 13 December 2021.

Public participation process included advertisements in local newspaper/s. Placement of A2 posters on site; Display and placement of A3 posters, maildrop letters in public facilities where possible e.g. Municipality, library, large retail shops, community clinic; Display of A3 posters at local community shops/'spaza' shops; Hand delivery of maildrop letters to (and conversations with) immediate neighbours.

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| 01  | <p><b>Date:</b> 14/12/2021<br/> <b>Format:</b> Email with list of I&amp;APs to register for process<br/> <b>I&amp;AP:</b> Mr. Richard John Jooste, representing the Greater Chatsworth Heritage and Biodiversity Foundation</p> | <p>Email received stating that the Greater Chatsworth Heritage and Biodiversity Foundation :</p> <ol style="list-style-type: none"> <li>1. registers as an interested and/or affected party (I&amp;AP) for the project;</li> <li>2. "are more than a bit disturbed about many issues and challenges in this regard";</li> <li>3. "welcome holistic and sustainable growth and development but Not at the expense of other burning environmental issues";</li> <li>4. "are painfully aware of the economic injection and the multitude of job and entrepreneurial opportunities this move will bring about".</li> </ol> | <p><b>EAP:</b><br/>                     Email sent on 25/01/2022:</p> <ol style="list-style-type: none"> <li>1. confirming receipt of correspondence from I&amp;AP and acknowledging that Mr R J Jooste and the Greater Chatsworth Heritage and Biodiversity Foundation have been registered as I&amp;APs and will be kept informed of the environmental progress of the project;</li> <li>2. informing I&amp;AP of Protection of Public Information Act protocols for the project;</li> <li>3. requesting I&amp;AP inform any other potential I&amp;APs to register for project.</li> </ol> |
| 02  | <p><b>Date:</b> 03/05/2022<br/> <b>Format:</b> Email letter<br/> <b>I&amp;AP:</b> Letter signed by Ms. Taryn Dreyer, pp. Head of Department,</p>  | <p>Email and letter (both dated 03 May 2022) received.</p> <p>1&amp;2. Letter (dated 03 May 2022) acknowledging receipt of the Notice of Intent, Screening Tool Report, Site Sensitivity Verification Report and Project Plan, as received by DEA&amp;DP via email on 14 April 2022.</p>   | <p><b>EAP:</b><br/>                     1 to 4. Noted.<br/>                     5. <i>Screening Tool Report, Protocols and Specialist Assessments</i><br/>                     5.1 Noted.</p>  |

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|     | <p>Department of Environmental Affairs and Development Planning (DEA&amp;DP)<br/> <b>Enquiries:</b> Ms Natasha Bieding</p> | <p><b>3. Listed Activities</b><br/> 3.1 Applicable listed activities as provided by Application are from Listing Notice 3 of the NEMA and the EIA Regulations, 2014 (as amended):<br/> <i>Activity Number: 10 i. Western Cape i. Areas zoned for use as public open space or equivalent zoning;</i><br/> and<br/> <i>Activity Number: 15 f. Western Cape ii. Inside urban areas: (aa) Areas zoned for conservation use or equivalent zoning, on or after 02 August 2010;</i><br/> 3.2 A Basic Assessment process must be followed in order to apply for environmental authorisation (EA). Only activities applied for will be considered for authorisation. The applicant to ensure that all the applicable listed activity(s) are applied for and assessed.</p> <p><b>4. Content of a Basic Assessment Report ("BAR")</b><br/> Refer to Appendix 1 of the EIA Regulations, 2014 (as amended), for the requirements with respect to the content of BARs.</p> <p><b>5. Screening Tool Report, Protocols and Specialist Assessments</b><br/> 5.1 Note taken that a Screening Tool Report (dated 22 February 2022) and confirmation of the relevant specialist studies or motivation for as to why certain specialist studies will not be conducted has been provided.<br/> 5.2 Specialist assessments as identified in the Screening Tool Report were listed.<br/> 5.3 Note that the Environmental Assessment Practitioner's ("EAP's") motivation stated that none of the specialist studies, as per the Screening Tool Report will be undertaken.<br/> 5.4 Note that should a commenting authority request a certain specialist study, then the study will have to be undertaken.</p> <p><b>6. Specialist studies to be conducted:</b><br/> 6.1 Reference made to the "Procedures for the Assessment and Minimum Criteria for Reporting on identified Environmental Themes in terms of Sections 24(5)(a) and (h) and 44 of the NEMA, when applying for EA ("the Protocols")<br/> 6.2 According to the Protocols, prior to commencing with a specialist assessment, the current use of the land and environmental sensitivity of the site must undergo a site sensitivity verification.<br/> 6.3 Note taken of the Site/Specialist Verification Report [submitted] :<br/> 6.3.1 Screening tool report site sensitivities are either disputed or agreed to. Specific instruction to the EAP based on the Directorate's response is indicated per theme (reference numbering DEA&amp;DP's comments on NOI):<br/> 6.3.1.1 to 6.3.1.9 When the sensitivity rating in terms of the theme is low, then a Compliance Statement is required. Where the sensitivity is regarded as negligible, please ensure the sensitivity rating is amended accordingly in the site sensitivities verification report (SSVR). If this is not the amended, a Compliance Statement would be required.<br/> 6.3.1.2 Requested to ensure that CapeNature forms part of the key authorities to be included as part of the Public Participation Process.<br/> 6.3.1.4 Reminded that although comments were obtained from Heritage Western Cape (HWC), it is still required to include the said authority as part of the Public Participation Process.</p> | <p>5.2 Noted.<br/> 5.3 It was stated that a botanical/biodiversity compliance scan would be undertaken to verify the EAP's findings.<br/> 5.4 Noted.</p> <p><b>6. Specialist studies to be conducted</b><br/> 6.1 Noted.<br/> 6.2 Noted.<br/> 6.3 A site sensitivities verification report (SSVR) was submitted.<br/> 6.3.1 Cognisance taken of instruction given by DEA&amp;DP and revised SSVR report to be included with screening tool report appended to EA application.<br/> 6.3.1.1 to 6.3.1.9 SSVR revised to indicate negligible where previously low (except for Very High rated terrestrial biodiversity theme for which a compliance statement will be obtained.<br/> 6.3.1.2 CapeNature was included in the I&amp;AP list for the public participation process (PPP).<br/> 6.3.1.4 HWC was included in the I&amp;AP list for the PPP.<br/> 6.3.1.8 CapeNature was included in the I&amp;AP list for the PPP.<br/> 6.3.1.9 A terrestrial biodiversity compliance statement will be obtained and included in the draft BAR PPP.<br/> 6.4 Noted.<br/> 6.4 Noted.</p> <p>7. Noted.</p> <p><b>8. Exemptions</b><br/> It is confirmed that no exemptions are being applied for.</p> <p><b>9. Alternatives</b><br/> Due to the lack of available land in the Chatsworth CBD no feasible and reasonable alternatives were found and will be discussed in the BAR.</p> <p><b>10. Public participation</b></p> |

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|     |   | <p>6.3.1.8 Reminded to ensure that CapeNature forms part of the key authorities to be included as part of the Public Participation Process.</p> <p>6.3.1.9 A Terrestrial Biodiversity Compliance Statement which meets all of the requirements of the applicable protocol must therefore be completed and submitted to this Department, as well as be made part of the information that will be circulated during the Public Participation Process.</p> <p>6.4 Where an assessment protocol is prescribed for one of the environmental themes included in the Protocol (in this case one such being agriculture), the specialist assessment must comply with the Protocol.</p> <p>6.5 Where a specialist assessment is required, but no specific environmental theme protocol has been prescribed, the level of assessment must be based on the findings of the site verification and must comply with Appendix 6 of the EIA Regulations, 2014 (as amended).</p> <p>7. Advised to take into account all applicable guidelines, including the guidelines developed by the Department, when undertaking a Basic Assessment process.</p> <p><b>8. Exemptions</b><br/>Note that there is no intention to apply for exemption from any provisions contained in the NEMA EIA Regulations, 2014 (as amended) or the NEMA, and that should an exemption from any provisions contained in the NEMA and the EIA Regulations, 2014 (as amended) be required, an exemption application must be submitted and the exemption process must be finalised before submitting an EA application.</p> <p><b>9. Alternatives</b><br/>Advice that the investigation of alternatives is mandatory. All alternatives identified must therefore be investigated to determine if they are feasible and reasonable. In this regard it must be noted that the Department may grant authorisation for an alternative as if it has been applied for or may grant authorisation in respect of all or part of the activity(s) applied for as specified in Regulation 20 of the NEMA and the EIA Regulations, 2014 (as amended). Alternatives are not limited to activities alternatives, but include layout alternatives, design, activity, operational and technology alternatives. Every EIA process must therefore identify and investigate alternatives, with feasible and reasonable alternatives to be comparatively assessed. If no feasible and reasonable alternatives were found, proof of the investigation undertaken and motivation indicating that no reasonable or feasible alternatives other than the preferred and the “no-go” alternatives exist must be provided.</p> <p><b>10. Public Participation</b><br/>10.1 Please be reminded to provide proof of having conducted the Public Participation Processes during your pre-application process.<br/>10.2 The BAR must be subject to a Public Participation Process that must comply with Chapter 6 of the EIA Regulations, 2014 (as amended).<br/>10.3 A register of I&amp;APs must be opened and maintained. The register must also be submitted to the Department.<br/>10.4 The EAP must record and respond to all comments received. The comments and responses must be captured in a Comments and Responses Report and must also include a description of</p> | <p>10.1 Noted.<br/>10.2 Noted.<br/>10.3 An I&amp;AP register has already been opened and submitted to the Department as Appendix N of the NOI.<br/>10.4 Noted – refer to opening paragraph/s of this document with complete PPP described in application and BAR.<br/>10.5 Noted.<br/>10.6 the pre-application PPP did not include a pre-application Bar – it was merely to register non-governmental I&amp;APs and their concerns (if any). Organs of states will be included with all I&amp;APs during the PPP for the draft BAR.<br/>10.7 Noted - as for 10.6 above. The DEA&amp;DP’s Waste Management Directorate and the Fuel Retailer’s Association has been added to the I&amp;AP list for future PPPs.</p> <p>11. <i>EMPr</i> Noted.</p> <p>12. <i>Need and Desirability</i> Noted.</p> <p>13. <i>Climate change: Energy efficiency/water saving</i> Noted.</p> <p>14. <i>General</i> Noted.<br/>14.1 Noted.<br/>14.2 Cognisance taken of requirements of Department’s letter.</p> <p>15. <i>Project Plan</i> Department’s acceptance of plan and PPP acknowledged.</p> <p>16. A pre-application consultation meeting was requested and held (virtually) on 06 May 2022. Email summary of meeting (dated 10 May 2022) will be appended to BAR.<br/>16.1 Noted.<br/>16.2 Noted.</p> |

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|     |   | <p>the Public Participation Process followed. This report must also be included in the Public Participation information attached to the BAR to be submitted for decision.</p> <p>10.5 In terms of Regulation 3 (8) of the EIA Regulations, 2014 (as amended), any public participation process must be conducted for a period of at least 30 days.</p> <p>10.6 Should a Public Participation Process, which includes the circulation of the pre-application BAR for comment, be undertaken prior to submission of an Application Form to this Department, in terms of Regulation 40, the pre-application BAR may also be submitted to this Department for commenting purposes. Please ensure an electronic copy of the pre-application BAR is submitted to this Department for commenting purposes. A hard copy submission will be required at a later stage. The Department will advise you when a hard copy submission will be required.</p> <p>10.7 In terms of good environmental practice, you are encouraged to engage with State Departments and other Organs of State in the pre-application phase to solicit their inputs on any of their requirements to be addressed in the EIA process. Please note that this does not replace the requirement of making the BAR available to State Departments as stipulated above. Please add this Department's Waste Management Directorate and the Fuel Retailer's Association to the list of authorities to be included in your Public Participation Process.</p> <p><i>11. Environmental Management Programme ("EMPr")</i><br/>In accordance with Section 24N of the NEMA and Regulation 19 of the EIA Regulations, 2014 (as amended), the Department hereby requires the submission of an EMPr. The contents of such an EMPr must meet the requirements outlined in Section 24N (2) &amp; (3) of the NEMA (as amended) and Appendix 4 the EIA Regulations, 2014 (as amended). The EMPr must address the potential environmental impacts of the activity throughout the project life cycle including an auditing protocol for the assessment of the effectiveness of monitoring and management arrangements after implementation. The EMPr must be submitted together with the BAR.</p> <p><i>12. Need and Desirability</i><br/>In terms of the NEMA and EIA Regulations, 2014 (as amended), when considering an application, this Directorate must take into account a number of specific considerations including, inter alia, the need for and desirability of any proposed development. As such, the need for and desirability of the proposed activity must be considered and reported on in the BAR. The BAR must reflect how the strategic context of the site in relation to the broader surrounding area, has been considered in addressing need and desirability.</p> <p><i>13. Climate change: Energy efficiency/water saving</i><br/>One of the objectives of the Western Cape Provincial Spatial Development Framework published by this Department is to minimise the consumption of scarce environmental resources such as water, fuel, building materials, mineral resources, electricity and land. To this effect and as part of the efforts to reduce the effects of climate change, as part of the basic assessment process, identify energy efficient technologies that could be implemented for the proposed development, where possible. Considering that South Africa is a water scarce country and that many catchments in the Western Cape are already water stressed, BAR must also consider implementing the use of water saving devices, where possible.</p> | 17. Noted.   |

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|     |  | <p>14. <i>General</i><br/> 14.1 In addition to the above requirements, clearly show how the proposed development complies with the principles contained in Section 2 of the NEMA and must also show how the proposed development meets the requirements of sustainable development.<br/> 14.2 Advised that the BAR must contain all the information outlined in Appendix 1 of the NEMA and EIA Regulations, 2014 (as amended), and must also include the information requested in this letter. Omission of any of the said information may result in the refusal of Environmental Authorisation.</p> <p>15. <i>Project Plan</i><br/> Acknowledgement of the Project Plan submitted together with the NOI and confirmation that it appears to be in order with regards to the allocated time periods for each of the legislated processes.</p> <p>16. Note that the pre-application consultation is an advisory process and does not pre-empt the outcome of any future application which may be submitted to the Department. No information provided, views expressed and/or comments made by officials during the pre-application consultation should in any way be seen as an indication or confirmation:<br/> 16.1 that additional information or documents will not be requested; or<br/> 16.2 of the outcome of the application.</p> <p>17. Note that the Department awaits the submission of the pre-application BAR and/or the application form for Environmental Authorisation.<br/> Kindly quote the above-mentioned reference number in any future correspondence in respect of the pre-application.<br/> Note that it is prohibited in terms of Section 24F of the NEMA for a person to commence with a listed activity unless the competent authority has granted an environmental authorisation for the undertaking of the activity. Failure to comply in terms of this prohibition will result in the matter being referred to the Environmental Law Enforcement Directorate of this Department for possible prosecution. A person convicted of an offence in terms of the above is liable for a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.<br/> Right reserved by the Department, to revise its comments and request further information based on any information received.</p> |  |
| 03  | <p><b>Date:</b> 13/05/2022<br/> <b>Format:</b> Email letter<br/> <b>I&amp;AP:</b> Letter signed by Ms. Taryn Dreyer, pp. Head of Department, Department of Environmental Affairs and Development Planning (DEA&amp;DP)</p> | <p>Email and letter (both dated 13 May 2022) with additional comments from the DEA&amp;DP received.</p> <p>1. Reference made to original Notice of Intent, Screening Tool Report, Site Sensitivity Verification Report and Project Plan, as received by DEA&amp;DP via email on 14 April 2022 and original DEA&amp;DP comment on NOI letter (dated 03 May 2022) as well as pre-application consultation meeting of 6 May 2022 and the follow-up email correspondence (10 May 2022) as received by the Department from the EAP.</p> <p>2. The Department notes the information as referred to in 1 above and provides its response indicated in <b>bold</b>:</p>   | <p><b>EAP:</b><br/> 1. Noted.<br/> 2. Noted.<br/> 2.1 The Applicant, Swartland Municipality, has communicated that it will make the need for an amendment application to transfer rights and obligations of the EA holder, a contractual requirement of the party to receive the EA from the Municipality (should an EA be granted).</p> |

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|     | <p><b>Enquiries:</b> Ms Natasha Bieding</p>     | <p>2.1 It is understood that the current project proponent, i.e. the Swartland Municipality will likely transfer the EA to another party, if an EA is granted for the abovementioned proposed development. <b>Kindly be advised that any holder of an EA is permitted in terms of Regulation 29 (b) of the EIA Regulations, 2014 (as amended) to apply for the change of ownership or transfer of rights and obligations of an existing EA.</b></p> <p>2.2 Detailed engineering plans and other technical information regarding the proposed filling station and associated components / equipment are not available at present, given the reasons provided. It is projected that this information will however be included in the final EMPr that will be ready prior to the construction phase. The BAR will also include layout plans in terms of the development footprint i.e. the filling station and business premises. <b>This Directorate accepts that detailed information, as mentioned above will only be known and made available at a later stage of the project's lifecycle. However, kindly be advised that any conceptual layout plans and associated information must be included in the BAR and a draft version of the EMPr. It is likely that the submission and approval of a final EMPr which contains detailed engineering plans and required technical information, will be made conditional, should an EA be issued for the proposed development. Approval of the final EMPr will need to be obtained in writing from this Department prior to commencement of the proposed development.</b></p> <p>2.3 It was confirmed that the local area and proposed site is underlain by a minor aquifer. <b>In view of the above and the nature of the proposed development (installation of underground storage tanks), the associated impacts in this regard be assessed as part of your Basic Assessment application. A Geohydrological Assessment will need to be undertaken by a suitably qualified specialist. Please be informed that the required Geohydrological Assessment must meet the requirements of Appendix 6 of the EIA Regulations, 2014 (as amended). If after consultation with the specialist, it is deemed that a geohydrological investigation is deemed sufficient, you are required to consult the Department and the Department of Water and Sanitation (DWS) to ascertain whether this would be acceptable.</b></p> <p>2.4 Given the condition of the site, certain environmental sensitivities should be regarded as negligible. <b>On 3 May 2022, this Department provided responses to the SSV Report received on 14 April 2022. Should any new information regarding the site's environmental sensitivities be applicable, such as changing the ratings to negligible etc. (as allowed for), then an updated SSV Report may be submitted to this Department for further comments or with the submission of the Application Form for environmental authorisation.</b></p> <p>3. Request to quote mentioned reference number in future correspondence in respect of the pre-application.</p> <p>4. Note that it is prohibited in terms of Section 24F of the National Environmental Management Act, 1998 (Act No. 107 of 1998) for a person to commence with a listed activity unless the competent authority has granted an environmental authorisation for the undertaking of the activity. Failure to comply in terms of this prohibition will result in the matter being referred to the Environmental Law Enforcement Directorate of this Department for possible prosecution. A person convicted of an offence in terms of the above is liable for a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> | <p>2.2 Conceptual layout plans and associated information will form part of the BAR and draft EMPRs submissions. Conditional approval of the final EMPr is noted. Swartland Municipality will include need to obtain approval of final EMPr in writing from DEA&amp;DP part of the contractual requirement of the party to receive the EA from the Municipality (should an EA be granted).</p> <p>2.3 A geohydrological preliminary report was undertaken for the proposed development site. Consultation with the DWS will take place during the draft BAR PPP.</p> <p>2.4 SSVR revised and resubmitted with screening tool report as appendices to the application and draft BAR.</p> <p>3. Noted.</p> <p>4. Noted.</p> <p>5. Noted.</p> |

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|     |   | 5. Right reserved by the Department to revise its comments and request further information based on any information received. |  |
| 04  |   | END OF TRAIL REPORT   |  |