

PUBLIC PARTICIPATION PROCESS (PPP) REPORT

In terms of Section 56 of the National Environmental Management Act (NEMA Act No 107 of 1998, as amended) and Environmental Impact Regulations, 2014 (as amended)

FOR THE PROPOSED DEVELOPMENT OF THE VRYBURG MALL ON ERF 11883 (PORTION OF ERF 506), VRYBURG



Compiled by	Hiland Environmental (Pty) Ltd
Hiland reference	VRY22/1137/15
Date	26 April 2022
DEDECT reference	NWP/EIA/79/2021
DEDECT case officer	Neo Mokotedi
Client	Dusty Moon Investments 344 (Pty) Ltd

HillLand Environmental Report
VRY22/1137/12
26 April 2022

ISSUED BY:

HillLand Environmental (Pty) Ltd
P.O. Box 590
George, 6530

Tel: 044 889 0229

Fax: 086 542 5248

E-mail: info@hilland.co.za / cathy@hilland.co.za / environmental2@hilland.co.za

Web site: www.hilland.co.za

PUBLIC PARTICIPATION REPORT

in terms of Section 56 of
NATIONAL ENVIRONMENTAL MANAGEMENT ACT

For

OR THE PROPOSED DEVELOPMENT OF THE VRYBURG MALL ON ERF 11883 (PORTION OF ERF 506), VRYBURG

Submitted for:

DEADP decision making (Part of the Final BAR)

Conditions of report use:

The report is the property of the sponsor and the author, who may publish it, in whole, provided:

1. That written approval is obtained from the author and that **HillLand Environmental** is acknowledged in the publication;
2. That **HillLand Environmental** is indemnified against any claim for damages that may result from publication;
3. The contents of this report may not be used for purposes of sale or publicity or advertisement without the prior written approval of **HillLand Environmental**.
4. That it is understood that **HillLand Environmental** accepts no responsibility for the contractor's failure to follow the recommended programme.
5. That it is understood that **HillLand Environmental** accepts no responsibility for the contractor's deviation or non-compliance to any specifications or guidelines provided in the report.
6. That it is understood that all figures, plates and diagrams are copyrighted and may not be reproduced by any means, in any form, in part or whole.

Table of Contents

1	INTRODUCTION	4
2	REQUIREMENTS OF THE PUBLIC PARTICIPATION PROCESS (PPP)	4
3	ROLES OF INTERESTED AND AFFECTED PARTY (I&AP)	5
4	LIST OF INTERESTED AND AFFECTED PARTIES (I&AP'S)	7
4.1	NOTIFICATION OF NEIGHBOURING LANDOWNERS	7
4.2	DRAFT PHASE	7
5	PUBLIC PARTICIPATION PROCESS	8
5.1	DRAFT COMMENTING PERIOD	9
6	CONCLUSION.....	41

List of Annexures:

Annexure A	Notification of Neighbouring Properties
Annexure B	Legal Advert
Annexure C	Site Notices
Annexure D	List of Registered I&AP's
Annexure E	Notification of the Draft BAR
Annexure F	Comments received on the Draft BAR
Annexure G	Legal Responses to comments received

1 INTRODUCTION

HillLand Environmental, independent Environmental Assessment Practitioners (EAP), have been appointed by the Applicant, **Jacques Reynecke of Dusty Moon Investments 344 (Pty) Ltd**, to ensure compliance with the regulations contained in the National Environmental Management Act (NEMA, No 107 of 1998) and Environmental Impact Assessment Regulations 2014 for the proposed development of the Vryburg Mall on Erf 11883, a portion of erf 506, Vryburg.

The proposal will entail the development of a commercial shopping centre of the 5ha property. The development was aimed at providing a centralized commercial center that would benefit the entire community and the site was approved and planning and environmental approval granted for its development.

This report serves as the Public Participation Process (PPP) report that has been submitted with the final BAR to DEDECT for their decision-making period. This report incorporates all comments received during the public participation processes and reports on compliance with s41 of NEMA.

2 REQUIREMENTS OF THE PUBLIC PARTICIPATION PROCESS (PPP)

Section 41 of NEMA specifies that a person conducting a public participation process must comply with the following minimum requirements as stipulated in the Regulations: —

- (a) fixing a notice board (of a size at least 60cm by 42cm; and must display the required information in lettering and in a format as may be determined by the competent authority) at a place conspicuous to the public at the boundary or on the fence of (i) the site where the activity to which the application relates is or is to be undertaken; and (ii) any alternative site mentioned in the application; †

Two (2) site notices were placed up on the 8th of January 2022.

1. at the site, Erf 11883;

2. at the local Pick 'n Pay notice board.

Please see proof attached to Annexure C.

- (b) giving written notice to
- (i) the owner or person in control of that land if the applicant is not the owner or person in control of the land; **the owner is the applicant**

- (ii) the occupiers of the site where the activity is or is to be undertaken or to any alternative site where the activity is to be undertaken; **there are no occupiers of the site**
- (iii) owners and occupiers of land adjacent to the site where the activity is or is to be undertaken or to any alternative site where the activity is to be undertaken; **neighbouring property owners were all notified of the need to register on 12th of January 2022 and again on the 18th of March 2022.**
- (iv) the municipal councilor of the ward in which the site or alternative site is situated and any organisation of ratepayers that represent the community in the area; **the ward councilor was notified as specified.**
- (v) the municipality which has jurisdiction in the area; **the municipality were notified**
- (vi) any organ of state having jurisdiction in respect of any aspect of the activity; **organs of state and state departments were notified;** and
- (vii) any other party as required by the competent authority;

Refer to proof attached to Annexure A.

- (c) placing an advertisement in (i) one local newspaper; or (ii) any official Gazette that is published specifically for the purpose of providing public notice of applications or other submissions made in terms of these Regulations;

A legal advert was placed in the Stellalander on the 12th of January 2022, page 4.

- (e) using reasonable alternative methods, as agreed to by the competent authority, in those instances where a person is desiring of but unable to participate in the process due to (i) illiteracy; (ii) disability; or (iii) any other disadvantage

As included in all notification letters.

3 ROLES OF INTERESTED AND AFFECTED PARTY (I&AP)

In terms of Section 42 of NEMA EIA Regulations, a registered interested & affected party (I&AP) is entitled to comment, in writing, on all written submissions, including draft reports made to the competent authority by the applicant or the Environmental Assessment Practitioner (EAP) managing an application, and to bring to the attention of the competent authority any issues which that party believes may be of significance to the consideration of the application, provided that –

- a) comments are submitted within (i) the timeframes that have been approved or set by the competent authority; (ii) any extensions of a timeframe agreed to by the Applicant or EAP.
- b) A copy of comments submitted directly to the competent authority is served on the Applicant or EAP; and
- c) The I&AP discloses any direct business, financial, personal or other interest which that party may have in the approval or refusal of the application.

Sections 43 & 44 of NEMA further specify that all written comments received by the EAP from a registered I&AP must accompany the (public participation) report when the report is submitted to the competent authority with the Final BAR. (see Appendix F for all copies)

The Draft Basic Assessment Report (BAR) was made available for public review and comment. I&APs had a 30-day comment period **(12 January 2022 – 11 February 2022)** to submit their comments on this proposal.

Based on comments received from SAHRA, a Heritage Impact Assessment was requested and undertaken and the HIA and HMP were distributed for an additional 30-day commenting period **(18 March 2022 – 20 April 2022)** in **accordance with s19(1)(b)**.

Comments received during the public participation periods are included in the comment and response table in this Public Participation Process Report (Section 5).

In light of the Covid-19 National Pandemic, it has been highlighted in the notification letter circulated that all communication must be done via email, fax and / or telephonically and that no hard- and/or electronic copies (CD & Memory Sticks) will be provided in order to reduce the risk of the spread of the virus.

It was also noted that if stakeholders and / or I&APs did not have access to e-mail, internet and / or are experiencing any problems with downloading information, HillLand Environmental can be contacted and will assist according to their needs/requirements.

A full hard copy of the BAR and associated appendices is available at HillLand Environmental's office. Stakeholders / I&APs must make an appointment with the administrative department at admin@hilland.co.za or Tel: (044) 889 0229 in order to view the document. All of the necessary Covid-19 hygiene protocols and social distancing will be implemented.

4 LIST OF INTERESTED AND AFFECTED PARTIES (I&AP'S)

4.1 NOTIFICATION OF NEIGHBOURING LANDOWNERS

The direct adjacent neighbouring property owners (**12th of January 2022 and 18 March 2022, see Annexure A**) were all notified via email on the availability of the Draft BAR for comment and of the need to register as an I&AP.)

Besides the authorities, **only Registered I&APs** receive further notifications with regards to the BAR process.

Neighbouring and Affected Landowners:

Property number	Landowner
Erven 1-27	Fairview Golf Estate
Erf 2474	Naledi Municipality
Open space areas east and south	
Erf 5673	

4.2 DRAFT PHASE

The following Authorities were requested to comment on the **Draft BAR (12 January 2022 – 11 February 2022) and additional documents (HIA and HMP) were distributed for an additional 30-day commenting period (18 March 2022 – 20 April 2022):**

Contact person	Department/organ of state/ interested and affected party	Confirmation of comments received
Ellis Thebe/Ms. Neo Mokotedi	North West Department Economic Development, Environment, Conservation and Tourism	Comment received (09/02/2022)
Nicole Abrahams/Rene de Kock	South African Roads Agency Limited (SANRAL)	No comments received
O. Keoagile/ Zebo Tshetho/Victor Tlhabanelo	Dr Ruth Segomotsi Mompoti District Municipality	No comments received
Bonolo Mohlakoana	Regional Department of Agriculture, Forestry and Fisheries - North West	No comments received
Abe Abrahams/ Hlengani Alexia/ Cloete Shaun/ Mokhoantle Lerato/ Feni Ntombizanele/ Rasikhanya Tendamudzimu/ Ngidi Ziyanda/ Moalosi Kelebogile	Department of Water and Sanitation - North West	No comments received
Motlhabane Mosiane	Provincial Heritage Resource Agency (PHRA) - North West	No comments received
HOD: Ms Mulangaphuma	Department of Public Works, Roads & Transport - North West	No comments received

Office Municipal Manager	Naledi Local Municipality	Comments received (08/02/2022)
Mr Tsunduka Khosa	National Department of Water and Sanitation	No comments received
Lizell Stroh	South African Civilian Aviation Authority	No comments received
Mr Chris Isherwood	South African Civilian Aviation Authority	No comments received
Dr Howard Hendricks	SANParks	No comments received
Tiaan Pretorius	Fairview Golf Estate	No comments received
Kelebogile Sartjie Wilson	Naledi Local Municipality: Ward Councillor, Ward 4	Correspondence received (12/01/2022)
Adriaan Venter Attorneys on behalf of Twin City	Interested and Affected Party (I&AP)	Comments received (2022/02/11 & 2022/04/20)
Elijah Dumisani Katsetse	South African Recourse Agency (SAHRA)	Comments received (interim comments 16/02/2022, correspondence 22/05/2022) Final comments received – 21/04/2022
Minnie Zondi	Leads 2 Business	No comments received
Stienie	Vryburg resident	Comments received (3 January & 6 April 2022)
Willem du Toit	Interested and Affected Party (I&AP)	Comments received (28 March 2022)

5 PUBLIC PARTICIPATION PROCESS

In terms of Section 41 of the NEMA regulations, the following minimum requirement has been attended to under the Public Participation Process:

J Section 41(5b) – giving written notice

Owners / occupiers of land adjacent to the boundary of the site (**Annexure A**) were informed on the **12th January 2022** of the need to register via notification letters of the process (via postal services). Authorities are automatically entered as Registered I&APs (unless they indicate otherwise).

Other persons and organizations were informed of the need to register as I&APs in order to be entered onto the I&AP database and to continue to receive information pertaining to this application, via an advert in the Stellander on **12 January 2022**. Please see **Annexure B**.

Two (2) site notice boards have been placed. One (1) site notice on the property and second one on the public notice board at the Pick 'n Pay (date **8 January 2022**). Please see **Annexure C** for the site notice.

Only registered Interested and Affected Parties and NGO's were notified further in the process.

5.1 DRAFT COMMENTING PERIOD

The following comments were received and responded to in the below table:

Stienie – Interested and Affected Party (I&AP)	
COMMENT	RESPONSE
31 January 2022	Hilland Environmental reply 31 January 2022:
<p>Hi Hilland When is the Vryburg Mall development going to start ???</p> <p>When will building start ?? When will the opening date be for the Vryburg Mall???</p> <p>We welcome this mall !!!!</p> <p>We have no objections to this mall and to the environmental impact !!!</p> <p>Thank you Stienie</p>	<p>Thank you for your email below and support of the proposal.</p> <p>The environmental application process is currently still running and commenting period on the proposal ends on the 11th of February 2022 (attached to this email please find the notification letter for more information and where to access the documents). Upon completion of the commenting period, the final documents with all the comments received will be submitted the Department of Economic Development, Environment, Conservation and Tourism (DEDACT, North West Province) for their decision making purposes. DEDACT will then have 107 days to make a decision and issue/reject the environmental authorization. After this decision has been made, the plans can be approved and building of the mall can commence (subject to the decision). As such, a lengthy process still need to be completed.</p> <p>Please do not hesitate to contact us should you require any additional information or have any questions.</p>
06 April 2022	Noted and thanked.
<p>Ek het geen teenkanting teen hierdie skrywe nie. U is welkom om voort te gaan met die vryburg mall.</p>	
Naledi Municipality – Municipal Manager – M.T. Segapo (8 February 2022)	
COMMENT	RESPONSE
<p>The following are the reasons for this endorsement:</p> <p>1. Job opportunities will be created during and post construction of the Mall</p>	<p>Correct, the proposal will result in numerous positive socio-economic impacts.</p>
<p>2. People who would otherwise not shop in Vryburg will be attracted by the wide variety of offerings at the shopping centre,</p>	<p>Noted and agreed.</p>

thus attracting tourists and visitors to our town boosting out economy	
3. The Mall will be located between Vryburg Golf Course and the Prosche Fariview Estate, thus improving the aesthetics of the town and attracting wealth to our town	
4. The Mall will be accessible to the FLISP Project along the N14 as well as the 4000 RDP low cost houses also built along N14	
5. N14 links the Northern Cape with Gauteng, Kwa-zulu Natal and other provinces that buy from the mines located in Kuruman. The Mall will provide a convenient place to stop for resting and refreshing for travelers, whilst doing shopping	Correct, the property can be easily accessed off the N14.
6. The Mall will change the town from its one dimension to a large diversified multi-dimensional town that it deserves to be	Noted
7. The Mall is situated in a safe and closed environment, thus not vulnerable for criminal attacks and will therefore attract more investors and more safely conscious shoppers	Noted.
8. As a Municipality, our spatial planning places focus on developing the town along N14 integrating human settlements and socio-economical amenities such as hospital, clinic, new school and Toyota Dealership	
9. this Mall will be to Vryburg in the 2020s, what the railway station was to Vryburg in the 60s.	
Department of Economic Development, Environment, Conservation and Tourism (DEDECT) – N. Mokotedi	
COMMENT	RESPONSE
1. On page 3 of the application form the project description indicated that the development footprint will be approximately 6.7hectares, the Department requests that the exact development footprint be indicated.	Exact development footprint and final proposed plans are included in the final BAR.
2. On page 6 of the application form the sector related to the transformation of land from agriculture or afforestation must be ticked as listed activity 28 of GNR327 is being applied for.	Activity 28 is no longer applied for as historic imagery indicates that the property was not used for active agricultural purposes in 1998.
3. Please confirm if the proposed development area was previously used for	Historic imagery has been included and analyzed in the final BAR. Based on the imagery the property has not been actively used for agricultural

activities stipulated in the activity (activity 28 of R 327).	purposes. Activity 28 is therefore no longer applicable.
4. On page 7 of the application form, the physical address of the applicant must be provided. The contact person for the land owner section must also be provided.	Amended and included.
5. On page 8 of the application form, the email address for the contact person of the local authority must also be provided.	Amended and general email address of the Municipal manager has been included.
6. On page 8 it is indicated that listed activity 32 is being applied for. The Department is however of the opinion that this listed activity is not applicable as the development has not commenced and therefore there will be no continuation. The Department requests that the activity therefore be removed.	This activity has been removed as requested.
7. On page 8 of the application form it must be indicated which option in terms of listed activity 12 of Listing Notice 3 and activity 28 of Listing Notice 1 is most applicable to the project and therefore it must be picked.	Noted and highlighted.
8. Furthermore, on page 8 of the application form, listed activities must be described as per project. For instance activity 12(h)(iv) is applicable because the site is in Critical Biodiversity Area.	Noted and amended.
9. On page 6 of the Draft Basic Assessment Report is indicated that the development footprint is approximately 5.0823 hectares which is contradictory to the development footprint indicated in the application. Please provide accurate information.	This has been amended and final plans have been included in the Final BAR. The proposed will result in the transformation of the entire 5ha property. The error in the cadastral plan has been corrected.
10. On page 10 to 12 of the draft Basic Assessment Report some of the listed activities that are not applicable to this activity are being identified. The Department requests that this section be revised to include only the listed activities that are applicable to the development.	Amended and all screened out listed activities have been removed.
11. The Declaration by EAP attached on page 37 and page 38 of the Draft Basic Assessment Report is not complete. A completed declaration by the EAP must be submitted together with the final Basic Assessment Report.	Declaration was attached and is resubmitted with the edited application.
12. The confirmation of services letter attached from the Naledi Local Municipality refers to Vildev Group (Pty) Ltd whereas the applicant is Dusty Moon	Noted and latest Naledi confirmation has been included.

Investments 344 (Pty) Ltd. You are therefore requested to attach the updated letter with the reference number of this project.	
13. The Basic Assessment Report must be compiled as per Appendix 1 of R. 326. Remove the whole section of the old Basic Assessment Report from this application as is not need.	Noted and the section has been removed.
14. The report and documents attached in the report must be original copies and they must be in colour,, no black and white.	Compliant.
15. The Environmental Management Programme Report attached is not site and activity specific. The Department requests that the EMPr attached be revised to include possible impacts and mitigation measures that are applicable to the activities applied for and it must be compiled as per Appendix 4 of R326.	The EMPr has been amended accordingly.
16. In annexure D proof of payment for the newspaper advertisement is attached. The Department requests that a recent newspaper advert be attached in the final Basic Assessment Report.	Copy of the Advertisement has been included in the public participation process report appendix.
17. Proof that ward councillor have been consulted must be attached in the report.	Included under public participation process report.
18. The Screening Tool Report attached is not signed. The Screening Tool Report must be signed by the compiler.	Screening tool has been signed.
19. Heritage study must be conducted as the Screening Tool Report indicated that the area is in a very high sensitivity in terms of relative archaeological and cultural theme.	HIA has been done and forms part of the assessment.
20. The specialist must complete the Departmental declaration by Specialist form and these must be attached in the final Basic Assessment Report.	Included in the Final BAR.
Department of Water and Sanitation – Lindiwe Franks & Ngidi Ziyanda	
COMMENT	RESPONSE
7 February 2022 Lindiaw Franks to DWS managers: Kindly note for your attention. Ms Delpont kindly note email addresses of the team for all future correspondence and reference.	Noted and thanked.

<p>Ngidi Ziyanda – 7 February 2022</p> <p>Please email me the Draft Basic Assessment Report (BAR) for the proposed development on the Mall of the North West on Erf 11883, Vryburg. Tried to download it the link but I failed.</p>	<p>HillLand Environmental reply 7 February 2022:</p> <p>Attached please find the compressed version of the Draft BAR. Note that this document does not include the associated appendices. Please follow the Google Drive link below to download the associated appendices.</p> <p>Google Drive Link: https://drive.google.com/drive/folders/1fUA4g7Zope24_X9n854Xr66tOKCe65Lk?usp=sharing</p> <p>Please do not hesitate to contact us should you require any additional information or have any questions.</p> <p>No further comments received</p>
<p>Elijah Dumisani Katsetse (SAHRA)</p>	
<p>COMMENT</p>	<p>RESPONSE</p>
<p>Interim comments – 16 February 2022</p> <p>The SAHRA APM Unit acknowledges receipt of the BAR application, the PIA report and recommendations contained therein. No further palaeontological studies are required. SAHRA requests that the following is undertaken in terms of section 38(3) of the National Heritage Resources Act (25 of 1999) as part of the EA application process.</p> <p>The proposed development has the potential to impact negatively on heritage and/or cultural resources of the area. Therefore a heritage impact assessment must be conducted. A field-based assessment of the impact to archaeological resources must be conducted by a qualified archaeologist. The report must comply with section 38(3) of the NHRA and the SAHRA 2006 Minimum Standards: Archaeological and Palaeontological Component of Impact Assessments, and the 2012 Minimum Standards: Archaeological Component of Heritage Impact Assessments. The Minimum Standards provides allowance for a Letter of Recommendation for Exemption that can be submitted by a</p>	<p>Noted and incorporated into this assessment. HIA has been submitted to SAHRA on the 7th of March 2022. HMP submitted to SAHRA on the 18th of March 2022.</p> <p>These were circulated for additional 30 day comment in terms of S19(1)(b).</p>

<p>qualified archaeologist should they deem it appropriate.</p> <p>The assessment should include any other heritage resources that may be impacted such as built structures over years old, sites of cultural significance associated with oral histories, burial grounds and graves, graves of victims of conflict, and cultural landscapes or viewsapes must also be assessed.</p> <p>Further comments will be issued upon receipt of the above. The applicant is advised to extend the EA process in terms of section 19(1)b of the NEMA EIA regulations in order to comply with this comment.</p> <p>Should you have any further queries, please contact the designated official using the case number quoted above in the case header.</p>	
<p>22 April 2022 via email</p> <p>Your application is compliant and a final comment will be issued today load shedding permitting.</p>	<p>Noted and thanked.</p>
<p>COMMENT</p>	<p>RESPONSE</p>
<p>Final comments dated 21 April 2022</p> <p>The SAHRA's APM Unit has received the draft BAR as part of the Environmental Authorisation process, attached to the BAR are heritage specialist studies. SAHRA supports the recommendation made in the reports by respective specialists and has no objections to the project.</p> <p>SAHRA inserts the following comments as a requirement in terms of section 3(4) of the NEMA Regulations and section 38(8) of the NHRA in the format provided in section 38(4) of the NHRA and must be included in the Final BAR and EMPr:</p> <p>38(4)a – The SAHRA Archaeology, Palaeontology and Meteorites (APM) Unit has no objections to the proposed expansion;</p>	<p>Your 'no objection' has been noted.</p> <p>Noted and incorporated.</p> <p>Noted and thanked.</p>

<p>38(4)b – The recommendations of the specialists are supported and must be adhered to. Further additional specific conditions are provided for the development; Recommendations and guidelines contained in the HMP for the Bio-Museum must also be adhered to.</p> <p>38(4)c(i) – If any evidence of archaeological sites or remains (e.g. remnants of stone-made structures, indigenous ceramics, bones, stone artefacts, ostrich eggshell fragments, charcoal and ash concentrations), fossils or other categories of heritage resources are found during the proposed development, SAHRA APM Unit (Elijah Katsetse/Phillip Hine 021 462 4502) must be alerted as per section 35(3) of the NHRA. Non-compliance with section of the NHRA is an offense in terms of section 51(1)e of the NHRA and item 5 of the Schedule;</p> <p>38(4)c(ii) – If unmarked human burials are uncovered, the SAHRA Burial Grounds and Graves (BGG) Unit (Thingahangwi Tshivhase/Nggqalabutho Madida 012 320 8490), must be alerted immediately as per section 36(6) of the NHRA. Non-compliance with section of the NHRA is an offense in terms of section 51(1)e of the NHRA and item 5 of the Schedule;</p> <p>38(4)d – See section 51(1) of the NHRA;</p> <p>38(4)e – The following conditions apply with regards to the appointment of specialists:</p> <p>i) If heritage resources are uncovered during the course of the development, a professional archaeologist or palaeontologist, depending on the nature of the finds, must be contracted as soon as possible to inspect the heritage resource. If the newly discovered heritage resources prove to be of archaeological or palaeontological significance, a Phase 2 rescue operation may be required subject to permits issued by SAHRA;</p>	<p>All recommendations have been included in the Final BAR and EMPr.</p> <p>Noted and incorporated into the EMPr.</p> <p>Noted and incorporated.</p> <p>Noted.</p> <p>Noted and included in the EMPr.</p>
--	--

<p>The Final BAR and EMPr must be submitted to SAHRA for record purposes;</p> <p>The decision regarding the EA Application must be communicated to SAHRA and uploaded to the SAHRIS Case.</p> <p>Should you have any further queries, please contact the designated official using the case number quoted above in the case header.</p>	<p>Noted and will be submitted to SAHRA.</p> <p>Noted and SAHRA will be notified.</p> <p>Noted.</p>
Minnie Zondi – Lead 2 Business – Interested and Affected Party	
COMMENT	RESPONSE
<p>29 March 2022</p> <p>Could I please be added as an IAP for the Mall of the North West project</p>	<p>30 March 2022</p> <p>Thank you, you have been registered as an Interested and Affected Party (I&AP). The Basic Assessment Report and associated appendices that includes the heritage impact assessment and management plan are available on our website at: www.hilland.co.za/public-processes. The commenting period ends on the 20th of April 2022. Please do not hesitate to contact us should you have any questions/require any additional information.</p>
Willem du Toit – Interested and Affected Party (28 March 2022)	
COMMENT	RESPONSE
<p>I have no objections to this !!!! You can continue with the building of this mall at vryburg mall</p>	<p>Noted and thanked.</p>

Adriaan Venter Attorneys & Associates – Adriaan Venter – 11 February 2022	
Objection against and comments on the Draft Basic Assessment Report for the Proposed Development of the Mall of the North West on Erf 11883 (a Portion of Erf 506) Vryburg	
Comment	Response
<p>1. We refer to the above matter, our interim telephonic discussion with the Department's abovementioned Case manager herein as well as the subsequent notices received from Messrs HillLand Environmental Consultants (the "EAP"), by virtue of which interested and affected parties have been invited to lodge their comments/objections to or against the above mentioned draft Basic Assessment Report (the "dBAR").</p>	<p>In terms of the Environmental Impact Assessment Regulations, specifically regulation 54, Messrs. Hilland Environmental Consultants, the Environmental Assessment Practitioners (the EAP) managing the application for Environmental Authorisation, must open and maintain a register which contains the names and addresses of all persons who, as a consequence of the public participation process, have submitted written comments or attended meetings with the EAP, or have requested the EAP to place their names on the register. Furthermore, in terms of regulation 56, a registered interested and affected party (I&AP) is entitled to comment on all submissions made to the competent authority (being the Department) by the EAP managing the application, and to bring to the attention of the competent authority any issues which the party believes may be of significance to the consideration of the application.</p> <p>It is unsure as to why the objector contacted the Case Officer from the Department, as the Site Notice that they were reacting to clearly indicated that it was a requirement to register with the EAP and instructions were provided as to how to obtain all the necessary Draft BAR documentation for public comment.</p> <p>As registered I&APs the method of communication in the EIA process is with the EAP and not the Case officer.</p> <p>The EAP received a phone call on the 19th January 2022 from the Case Officer stating that the objectors wished to register as I&APs and supplied the contact details that were given.</p> <p>An email was sent to the objector (19th January 2022) with the notification letter for registration as an I&AP and availability of documents.</p> <p>As no response or confirmation was received the EAP called the objector's representative, Wilhelm Scheepers on the 20th January 2022.</p> <p>The objector's representative registered as an I&AP and the comment submitted is part of that process as an I&AP.</p>

<p>2.</p>	<p>We, at the outset, confirm that we act herein on behalf of Twin City Trading (Pty) Ltd ("our client"), in its capacity as an interested and affected party in the abovementioned Environmental process, and deem it prudent to record that our client, as can be witnessed from the contents of paragraph 8 to Annexure A hereto, has already recorder its vested interests in this regard on the 2nd of August 2021.</p>	<p>Please note that any comments or objections submitted prior to the commencement of the EIA process for any other matter are outside of this EIA process and are not applicable and have no bearing on this EIA process.</p> <p>The EAP and the applicant, Dusty Moon, had no knowledge of any prior communications with the Department of Agriculture and Rural Development submitted 2nd August 2021 (your annexure A).</p> <p>The EIA process commenced with an invitation for I&APs to register on the 12th January 2022.</p> <p>Communications with any other party prior to this are unknown to the EAP and are not part of the Public Participation record or process.</p> <p>The application in terms of NEMA was submitted on the 2nd December 2021 to DEDECT and any public participation undertaken has taken place in accordance with the NEMA EIA regulations subsequent to that date. DEDECT specifically requested the Public Participation Process to only commence after the 6th January 2022 and no prior comments were submitted to the EAP by DEDECT. Nor was the content of Annexure A forwarded to the EAP on submission of the NEMA application.</p> <p>The NEMA application is a new application in terms of the fact that the previous application had lapsed with no lawful commencement in terms of the EA previously issued.</p>
<p>3.</p>	<p>It in the abovementioned circumstances and where Dusty Moon Investments 344 (Pty) Ltd (the "Applicant"), is undoubtedly aware of our client's above-mentioned interests herein, is unsettling to note that, when it instructed the EAP to commence with the Environmental process, it completely failed, neglected and/or wilfully refused to notify and/or inform the EAP of our client's already recorded interests herein, which would have enabled such EAP to transparently embark on this</p>	<p>Please note that the EIA process in terms of NEMA commenced with the legal advertisement and site notice in terms of the EIA regulations - such date commenced on the 12th January 2022 and the objectors, Twin City Trading, registered as an I&AP in response to the site notice on the 20th January 2022 and did not supply a copy of their Annexure A at the time of registration.</p> <p>The communication received 11th February 2022 is the first comment or objection submitted to the EAP in terms of the NEMA EIA process which is underway other than that of their registration on the 20th January 2022.</p> <p>Regardless of the date of registration and comment provided, there is no requirement on the Applicant or the EAP to engage with "competitive interest groups" unless they register as I&APs and formally take part in the process.</p> <p>Having registered and supplied comment and declared their competing interests in the outcome of the decision, Twin City Trading are now a registered I&AP in the NEMA process going forward.</p>

	<p>process, with the solicited participation of our client.</p>	<p>The interests of the objector have not been prejudiced in any way, as they have actively participated and provided comment during the formal public comment period in terms of the NEMA EIA regulations – an opportunity granted to any Interested and Affected Party.</p>
<p>4.</p>	<p>Such modus operandi of the Applicant, with due consideration of the pending litigation between our client and the Applicant, which specifically pertains to and revolves around the Applicant's intended shopping centre development to be constructed on Erf 11883 Vryburg Township, I.N., North West (the "subject property"), is disingenuous and should be frowned upon by the Department when it considers this dBAR. Should it not have been for the responsible conduct and intervention of the Department's appointed Case manager herein, by virtue of which the EAP was belatedly instructed to notify our client of this process, it is highly doubted whether our client would ever have been notified of the submission of this dBAR.</p>	<p>Any pending litigation is not a matter for the NEMA EIA process which has its own regulatory framework and process to follow.</p> <p>There is no obligation on the EAP to notify any parties outside of the legal NEMA EIA regulation framework. Nor is there any obligation of the Department to notify the EAP of competing interests.</p> <p>Any "competition" interests or conflicts between parties are of no bearing to the EIA process.</p> <p>The registration of Twin Rivers Trading as an I&AP is up to the I&AP to do in terms of the required NEMA regulations and for that purpose there is a legal advertisement and a site notice as well as notifications of direct neighbours, State Departments, Organs of State, Local Authorities and Ward Councillors. The Case officer was requested by the EAP to indicate if any other State Departments, Organs of State, NGO's or other parties were required to be notified.</p> <p>The case officer indicated the objector's interest in the matter (19 January 2022) and advised that they had received a phone call to register as an I&AP after having seen the site notice, as such notification was communicated with their office.</p> <p>It is not apparent why the I&AP registration did not take place in accordance with the site notice and the instructions on the site notice, but was rather communicated via and through the case officer (who's details are not contained in the site notice).</p> <p>Please note that the allegation "highly doubted whether our client would ever have been notified of the submission of this dBAR" – there is NO requirement in the NEMA EIA regulations that requires the direct notification of competing business interests.</p> <p>The EAP was advised by the Case Officer of the wish of a party to register as an I&AP, which should not have been communicated through the Case officer, but which should have been done in accordance with the registration procedure clearly indicated on the Site Notice as displayed.</p>
<p>5.</p>	<p>We however, notwithstanding the above and as can be noted from the contents of Annexure B hereto, have been instructed by our client to lodge its formal objection and</p>	<p>Noted – and the comment is responded to in the comment and response report as required.</p>

	<p>comments against the abovementioned dBAR, as we hereby do, and for such purpose, we deem it prudent to record the following:</p>	
5.1.	<p>Our client herein is a legally registered entity with various pecuniary and proprietary interests in the Town of Vryburg, which includes inter alia Erf 5146 Huhundi Township, Registration Division I.N., North West ("our client's property"), on which our client is in the process of developing a competing shopping centre facility to be known as the Vryburg Mall.</p>	<p>5.1 the competition interest in another mall within Vryburg is noted – interest in a matter needs to be disclosed in terms of NEMA.</p>
5.2.	<p>Our client, for the aforementioned purpose, was indeed obliged to procure a formal Environmental Authorisation from the abovementioned Department, by virtue of which its Vryburg Mall can lawfully be developed on our client's property, and such Environmental Authorisation, which remains valid and executable to date hereof, has indeed been issued under reference number: NWP/EIA/04/2017.</p>	<p>5.2 the NEMA EA for their mall is noted – competing interests is not a valid NEMA objection. It is noted that the objector is currently busy with additional NEMA, WULA and Heritage applications in relation to their property which has not been disclosed.</p>
5.3.	<p>It should, with due consideration of the foregoing, be common</p>	<p>5.3 the sustainability and ability of two malls in a town to co-exist has already been approved by the local authority. The decision to go ahead is an economic decision based on various factors.</p>

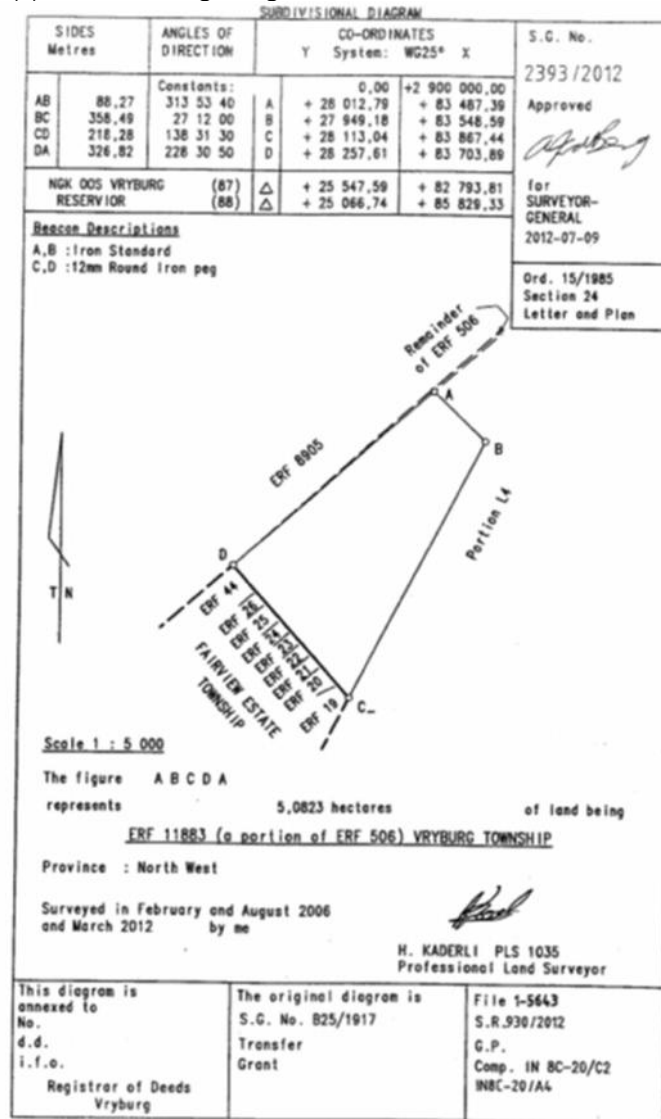
<p>cause however that 2 (two) competing shopping centre facilities, in the same retail hierarchy, such as those intended by our client and the Applicant, competing within the same catchment area, for the same threshold market and disposable income, cannot sustainably and economically co-exist. Such fact and the entirely unlawful manner in which the Applicant and the Naledi Local Municipality embarked on the procurement of the subject property and the land use rights which allegedly vest herein, and them misrepresenting propaganda in that regard, after our client detected the possibility of the Applicant's intended shopping centre facility, and after both the Applicant and the Municipality refused to refrain from such unlawful conduct and actions, indeed prompted our client to ultimately, as can be noted from the contents of Annexure C, D and E hereto, embark on the institution of formal High Court proceedings under Case numbers M483/2021 and M11/2022 respectively, as well as the investigations with the Department, by virtue of which the original Environmental</p>	<p>The local authority has made their decision to approve both malls, each have their own tenant base and each will attract and be supported by the residents of the area based on their choice of shops that they need to visit.</p> <p>This is an economic decision of the applicant the Local authority has confirmed the land use rights and support of the mall from a planning and economic perspective and the Environmental Authorisation which had previously lapsed is the subject of this NEMA process in order to ensure that the necessary Environmental Authorisation is in place.</p> <p>The NEMA EA lapsed as it did not commence within the regulatory framework of the Environmental Authorisation. It does not need to be "ruled" as lapsed, if there is no commencement in terms of NEMA an EA lapses and needs to be reapplied for.</p> <p>The relevance of the high court proceedings against the Local Authority in relation to the sale of the land has no bearing on the Environmental Authorisation required to undertake the listed activities as applied for. Any project that triggers a listed activity requires an EA in addition to any other planning approvals.</p>
--	---

	<p>Authorisation of the Applicant herein, was ultimately ruled to have lapsed.</p>	
<p>5.4.</p>	<p>Our client therefore, with due consideration of the abovementioned facts and circumstances, constitutes an interested and affected party who shall undoubtedly be adversely affected by the possible approval of the Applicant's Environmental Authorisation envisaged with this dBAR, and is undeniably therefore clothed with the necessary <i>locus standi</i> to lodge this objection and comments against the processing and approval thereof.</p>	<p>5.4 the "competition" interest of the objector is noted, however competing economic interests cannot be used as an argument in an environmental process.</p>
<p>6.</p>	<p>Kindly therefore note our client's interests in your records, and ensure that all additional correspondence and/or documents to be exchanged in this regard, be sent to our firm at the contact details set out in our letterhead <i>supra</i>.</p>	<p>6. Noted and registered as an I&AP as per the registration on the 19th January 2022 and the comments submitted on the 11th February 2022 which form part of the NEMA EIA process.</p>
<p>7.</p>	<p>We trust you find the above in order, but must at this stage record, as we herewith do, that all our client's rights to elaborate on and/or amplify the contents of this objection and comments after our receipt of the final Basic Assessment Report, are herewith formally reserved.</p>	<p>7. Noted – the comment period on the draft BAR is however a regulatory 30 days and comment has been submitted within the 30 day comment period (12th January – 11th February 2022), having been received on the 11th February 2022.</p>

<p>8.</p>	<p>We, after perusal of the dBAR submitted herein and with due consideration of our client's interests, the existing character of the surrounding area involved as well as the nature and extent of the intended development of the Applicant, i.e. a competing shopping centre facility of approximately 19 000m² GLA, <i>prima facie</i> herewith, on behalf of our client, object against and comment on the dBAR as follows:</p>	
<p>8.1.</p>	<p>The dBAR herein has not been made available with all the prescribed documentation which should have been submitted herewith, and such fact objectively prohibits interested and affected parties such as our client, from objectively corroborating the information put forward therein with the true intentions of the Applicant, and renders the dBAR incomplete and unable of being processed.</p>	<p>8.1 The draft BAR contains all the required and prescribed documentation in terms of NEMA for authority review and public comment. There is no indication in the objections noted as to what information is allegedly not available.</p>
<p>8.2.</p>	<p>The property descriptions contained in the dBAR and the public participation notices issued in that regard are incorrect, or alternatively, are inconsistent, incomplete and misleading, and such fact renders the entire public participation process</p>	<p>8.2 The draft BAR clearly describes the property and the public participation notices are correct and consistent with the property description. The project and applicant's property is correctly described as <u>Erf 11883, a portion of Erf 506, Vryburg</u> in the application and in the draft BAR.</p> <p>The SG diagram and description is attached.</p> <p>There is an error in the cadastral boundary layer as contained on the various government websites (including the screening tool). The correct SG property boundary is included on all of the maps in the final BAR and the area assessed outside of the property boundary are indicated</p>

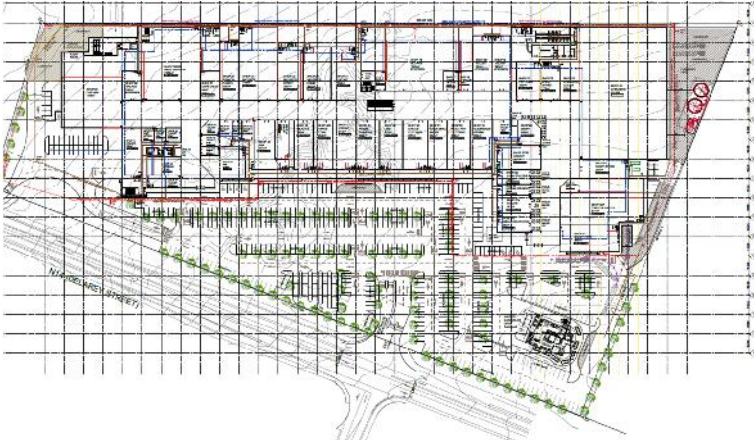
embarked upon in this regard, invalid and fatally defective.

The draft BAR is valid and there is no fatal flaw – a larger area was assessed than on which development approval is being sought.



Correct cadastral SG diagram of the site (left) and the corrected cadastral indicated on the site assessments.(right – blue line)

The Mall does not extend beyond the cadastral boundaries of its site.

<p>8.3.</p>	<p>It can be noted from the contents of the dBAR that same, in addition to the above-mentioned fatally defective irregularities in the public participation process, furthermore pertains to an additional area of land which falls outside of the boundaries of the subject property, and which does not vest in the name of the Applicant or any of its affiliated companies or persons, and such fact renders the entire dBAR entirely unauthorised and not capable of being processed by any objective and responsible Authority.</p>	<p>8.3 there are no “fatal irregularities” in the public participation process.</p> <p>There is however an area which is included on all the digital SG cadastral information, including that of the DEFF Screening tool, that incorrectly defined the eastern property boundary as creating a larger property than the site entails.</p> <p>As such an area outside the property boundary has been assessed in this application. The Final plans submitted to the local authority, and included in the Final BAR, clearly show the property boundary and that there is no development proposed outside the property boundary.</p> <p>All the maps in the Final BAR have been edited to ensure that the incorrect cadastral SG information is not used and the full development application is include on the cadastral property.</p>  <p>The diagram is a detailed site plan overlaid on a grid. It shows a large rectangular area with a red outline representing the property boundary. Inside this boundary, there are various structures, roads, and landscaping elements. A green line indicates a specific boundary or path. The plan is annotated with numerous technical details, including dimensions and labels. A red circle with a cross is visible in the upper right corner of the plan area.</p>
<p>8.4.</p>	<p>In the latter regard, the EAP therefore, either wilfully or negligently indicated the incorrect size of the subject property in the dBAR, or alternatively, indicated incorrect property boundaries for the subject property, in order to mislead the Department to issue an Environmental Authorisation in</p>	<p>8.4 the property size is correctly reflected in the Draft BAR (5.083ha). The cadastral information depicted on the maps, did however include the incorrect information which has been corrected.</p> <p>The area that was assessed was therefore larger than the area proposed and intended for development.</p> <p>The correct maps have been included in the Final BAR. There is no proposed development outside the property boundary – see the latest SDP as submitted to the Local Authority (dated April 2022).</p> <p>The allegation that this cadastral boundary error has lead to a “host of additional Listed activities triggered and not “dealt with” or addressed” is unfounded and incorrect. All listed activities</p>

	<p>respect of the total extent of the land involved, which includes land which does not vest in the name of the Applicant and which does not have the prerequisite land use rights to develop the Applicant's intended shopping centre facility or any ancillary uses thereon, and the incorporation and physical implications of which, i.e. inter alia the triggering of a host of additional Listed Activities, were not dealt with or assessed in the dBAR at all.</p>	<p>applicable to the application were identified and are included in the draft BAR and Final BAR. The applicability of the various listed activities is highlighted. No potentially triggered listed activities have been excluded or are applicable to the application</p> <p>The property and its size and the listed activities applicable have all been listed and assessed.</p> <table border="1" data-bbox="943 347 2002 517"> <tr> <td>Property</td> <td>Erf 11883, a portion of Erf 506, Vryburg</td> </tr> <tr> <td>SG Number</td> <td>T01N000 5000 11 883</td> </tr> <tr> <td>Property size</td> <td>5, 0823 ha</td> </tr> <tr> <td>Coordinates</td> <td>26°57'50.00"S 24°43'2.85"E</td> </tr> <tr> <td>Local Authority</td> <td>Naledi Local Municipality</td> </tr> </table>	Property	Erf 11883, a portion of Erf 506, Vryburg	SG Number	T01N000 5000 11 883	Property size	5, 0823 ha	Coordinates	26°57'50.00"S 24°43'2.85"E	Local Authority	Naledi Local Municipality
Property	Erf 11883, a portion of Erf 506, Vryburg											
SG Number	T01N000 5000 11 883											
Property size	5, 0823 ha											
Coordinates	26°57'50.00"S 24°43'2.85"E											
Local Authority	Naledi Local Municipality											
<p>8.5.</p>	<p>The dBar, with due consideration of the extent and nature of the Applicant's intended development as well as the locational context of, and the historical activities which evidently took place on the subject property, has therefore failed to apply for and/or discuss all the prescribed Listed Activities which are to be triggered by the Applicant's intended development, and such fact renders the entire dBAR fatally flawed, irregular and unable of being processed.</p>	<p>8.5 The listed activities applicable have all been included and assessed in the draft and Final BAR.</p> <p>There is no indication as to what so called "other" listed activities would have been triggered and required assessment.</p> <p>Various other listed activities were specifically include and indicated as to why they are not applicable – however DEDECT requested these get removed from the Final BAR to avoid any confusion.</p>										
<p>8.6.</p>	<p>The EAP, in circumstances where the new Environmental Authorisation envisaged with the dBAR, and the nature and extent of the project now</p>	<p>8.6 The NEMA process has dealt with all the listed activities applicable to the application as a "de novo" application and the original EA and application is included for reference purposes to put into context the original approval, specifically in relation to activity 32 Listing Notice 1. DEDECT have instructed the removal of activity 32 as they deem it not applicable.</p>										

	<p>envisaged, differ substantially from the original lapsed Environmental Authorisation pertaining to the subject property, dismally failed to motivate the dBAR as such, and the EAP's reference to a mere "reinstatement" and/or "continuation" of the lapsed Environmental Authorisation, is indeed therefore entirely misdirected.</p>	<p>The word "reinstatement" will be removed to be more clear as to the intent.</p>
<p>8.7.</p>	<p>In the latter regard it should be noted that the original Environmental Authorisation herein, which is now intended to be reinstated with this dBAR, authorised different development rights than those which are now proposed, did not pertain to the enlarged property reflected in the dBAR, and some consequently cannot now be relied upon for the new Environmental Authorisation applied for, as mere "reinstatement" or "continuation" thereof.</p>	<p>8.7 The application is for the activity as described and as proposed. A new EA will be issued based on the NEMA application and Final BAR.</p> <p>The references to the lapsed EA is for reference purposes as the listed activity 32 specifically applies to activities previously authorised that have lapsed (i.e. not commenced and therefore lapsed) where the NEMA thresholds are met in other listed activities.</p> <p><i>"Activity 32. The continuation of any development where the environmental authorisation has lapsed (i.e not commenced and therefore lapsed) and where the continuation of the development, after the date the environmental authorisation has lapsed, will meet the threshold of any activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014."</i></p> <p>The applicable listed activity is that of clearance of vegetation and not to any specific new or old layout proposal.</p> <p>The NEMA application is in terms of the current listed activities as they will be triggered by the current application on the affected property.</p> <p>DEDECT specifically requested the removal of activity 32 from the application as they deem it not applicable.</p>
<p>8.8.</p>	<p>The dBAR, in addition to the above, completely fails to consider and/or motivate the access requirement and conditions imposed by the Naledi Local Municipality for</p>	<p>8.8 The Naledi municipality have approved the project. This by implication means that the access and service capacity is confirmed.</p> <p>.</p>

	<p>the Applicant's intended project, and moreover fails to motivate the capacity and availability of the required engineering services needed for the intended development on the subject property, which objectively prohibits interested and affected parties from assessing the expected impact of the Applicant's intended development.</p>	
<p>8.9.</p>	<p>In the latter regard the dBAR, without motivation or explanation therefore, and whilst erroneously relying on an out-dated 2012 confirmation of services capacity from the Municipality for such purpose, places the obligation to provide adequate engineering services for the Applicant's intended development on an unknown third party described as Vildev (Pty) Ltd, and no confirmation of the aforementioned Company's interests, existence or capability are provided in the dBAR, by virtue of which it allegedly will be obligated to guarantee the installation of such required engineering services. In the circumstances, our client is not in the position to objectively consider the impact of the Applicant's</p>	<p>8.9 The municipality have considered the current application and information in their decision making and will have requested updated information where they thought it was appropriate / relevant / necessary.</p>

	intended development on the receiving environment.	
8.10.	The aforementioned facts, read with the contents of the dBAR , currently therefore render the intended development of the Applicant without proven and/or existing engineering services capacity at all, and such fact, with respect, renders the entire Environmental process embarked upon by the EAP premature, and same can simply not objectively therefore be considered and/or assessed by the Department.	8.10 - The service capacity has been confirmed with the local authority and the local authority has considered the information that they required in order to reach such decision.
8.11.	The dBAR , when the contents thereof are assessed against the findings of the Wetland and Riparian Functional Assessment Report of Limosella Consulting (Pty) Ltd, dismally fails to indicate adequate measures to address and/or limit the identified impacts on the existing wetlands, and the recommendations of the EAP's own wetland specialist in that regard, have simply therefore been ignored. This fact objectively serves as proof that the entire process embarked upon, has been embarked upon as an apparent formality, without any intention to limit the adverse impacts of the Applicant's intended	8.11 the mitigation measures proposed by the specialist have all been included in the report and in the EMPr. Map cadastral to be corrected. The fact that they assessed an area larger than the actual site is a benefit to the assessment process. By default the wetland specialists had to assess the areas outside the site as no wetlands or watercourses occur on the property itself.

	<p>development. The objectivity of the EAP in these circumstances should therefore be questioned.</p>	
<p>8.12.</p>	<p>The EAP's methodology for addressing the implementation of the best practice with regard to the design, placement and maintenance of the required sewerage infrastructure as well as the implementation of alien plant control and sustainable urban drainage, is simply not clear from the contents of the dBAR, and same therefore, with due consideration of the locational context of the subject property in respect of the existing wetlands, cannot be accepted.</p>	<p>8.12 The engineering plan shows the sewer line in relation to the wetlands – this falls outside of the wetland sensitive zones and is a pipeline linking to the municipal system.</p> <p>Alien clearing on the property will be implemented as the vegetation clearing commences.</p> <p>Included in the EMPR - Alien clearing included in the Terrestrial biodiversity report – to keep alien vegetation out of the area post construction.</p> <p>SUDS and storm water plans to be included as part of the municipal approval system.</p>
<p>8.13.</p>	<p>The objective recommendations contained in the EAP's own out-dated Geotechnical consultant's report compiled in respect of the subject property, i.e. to the effect that the depressions from the historical borrow pits should either be incorporated into the design of the intended development, or that the Applicant should consider the rehabilitation thereof, as far as we can detect, have simply been ignored and have been swept under the proverbial rug.</p>	<p>8.13 Geotechnical report has been confirmed as unchanged – the geology of a site does not alter with time.</p>

<p>8.14.</p>	<p>The dBAR is furthermore replete with discrepancies in respect of the aggregate size of the subject property, the extent of the intended development to be developed thereon as well as the number of parking bays to be provided as integral part thereof, and same objectively therefore prohibits any interested and affected parties and the Department from objectively assessing the true development intentions of the Applicant.</p>	<p>8.14 - discrepancies on the size – this was checked. The property size is correctly reflected as 5.08ha.</p> <p>The error on the mapping has been corrected.</p> <p>Paring bays is a function of the municipal SDP approval and is not a NEMA consideration.</p>
<p>8.15.</p>	<p>The dBAR and the expert studies submitted in support thereof objectively seem to have assessed only the potential impacts which a development on the subject property would have on the existing and adjacent wetlands, but completely failed and/or neglected to consider and/or assess the impacts of the adjacent portion of land, which the Applicant apparently unlawfully intends to utilise for parking purposes, in circumstances where such portion of land and the ancillary uses to be developed thereon, shall undoubtedly fall within the 32m buffer zone and regulated areas of the surrounding wetlands.</p>	<p>8.15 - the site in full has been assessed. Due to the error in the mapping and cadastral boundary the area outside the property boundary has also been assessed, including in the wetlands report and mitigation measures proposed accordingly.</p> <p>There are no areas affected by the 32m buffer.</p> <p>The application in terms of the NWA is in progress and includes the activities within 500m of any of the wetlands.</p>

<p>8.16.</p>	<p>The dBAR furthermore, after careful consideration thereof, objectively seems to have failed and/or neglected to address all the existing water channels which exist on or adjacent to the subject property, and same furthermore does not contain any geo-hydrological studies which assess the possible pollution to be caused by the intended development's sewer pipeline and grey-stormwater pond. Such facts, with respect, render the entire process embarked upon, fatally defective.</p>	<p>8.16 - The wetlands and water course report covers all the watercourses in the area which are all off site.</p> <p>The sewer line is a connection to the existing sewage network.</p> <p>Geohydrological studies were not required or requested nor are they necessary as there are no watercourses on the property or affected by the development other than the Fresh water specialist assessment – included in the EMPR.</p>
<p>8.17.</p>	<p>It has also been noted that the dBAR, contrary to the findings of the Site Sensitivity Verification report contained therein, dismally fails to indicate and/or discuss the possible procurement of a prerequisite permit for the destruction/removal and/or relocation of the protected flora species encountered on the subject property, and such fact similarly renders the dBAR premature and defective.</p>	<p>8.17 The Draft BAR specifically indicates that a permit will be required for the transplant of the one protected species prior to any work taking place on site. The EMPr contains the details of the permit requirements.</p> <p>One cannot apply for said permit until there is an EA to actually legally disturb the site.</p>
<p>8.18.</p>	<p>The dBAR has furthermore indicated that General Authorisation for the intended development of the Applicant, due to the locational context of the subject property, shall</p>	<p>8.18 - GA – is in progress.</p> <p>Heritage – SAHRA approval is imminent.</p> <p>In terms of the “one environmental system” – both Water Affairs and SAHRA are aware of the NEMA process and their decision making will inform the NEMA decision.</p>

	<p>similarly be required in terms of the National Water Act, Act 36 of 1998 as well as the National Heritage Resources Act, Act 25 of 1999, and the entire dBAR, in the absence of such Authorisation having been procured, is consequently premature and not capable of being processed.</p>	
<p>8.19.</p>	<p>The dBAR, notwithstanding the pending litigation between the Applicant and our client, in terms of which the irregular land use rights relied upon by the Applicant to develop a shopping centre facility on the subject property are heavily disputed, has naïvely stated that no alternative possibilities have been considered for the subject property, and that same shall only be considered if “any planning or other regulatory factors” are detected during the public participation process. Such statement, with due consideration of the contents of Annexures C and D hereto, is disingenuous.</p>	<p>The application has the support and approval of the local authority.</p> <p>The court dispute brought to the fore by the objector is noted and will have to run its course and has no bearing on the Environmental Authorisation being sought.</p> <p>No alternative sites have been raised through the I&APs in the public participation process – this objection is one of economic competition which the local authority has already considered and accepted by having approved both sites. This is not a “one or the other” situation.</p> <p>It is interesting to note that the subject of the court interdict was to prevent the applicant from commencing on site with their development without the required NEMA EA. The objectors comments on the legal NEMA process are now to object to the NEMA process.</p>
<p>8.20.</p>	<p>It has furthermore been noted that the dBAR continues to rely on the findings of the Geotechnical investigation report and Traffic Assessment study compiled and submitted in support of the original</p>	<p>Noted and included for information purposes. The local authority has considered the matter and approved the development and use based on their criteria.</p> <p>What is important to note is that there are no circumstances that would change the geotechnical conditions of the site in the timeframe since the report was commissioned and that information will inform the design and structural engineering aspects of the design.</p>

	<p>Environmental Authorisation of the Applicant. Such out-dated report and study have been conducted and compiled in 2013 already, and can hardly be considered to reflect the current and existing circumstances applicable to the subject property 9(nine) years later. Any findings contained therein, cannot therefore be considered and/or accepted by our client, or be relied upon by the EAP in support of its dBAR. Fact is that the prevailing TMH 16 COTO document, indeed now determines that any Traffic Impact study may only be utilised for a period of 5 (five) years after it has been conducted, and such fact objectively renders the dBAR without any valid Traffic study which assesses the impacts to be caused thereby.</p>	<p>SANRAL have confirmed and approved the access to the site.</p>
<p>9.</p>	<p>Our client consequently, with due consideration of its abovementioned preliminary comments and/or objections against the processing and approval of the dBAR, respectfully therefore submits that same should <i>de novo</i> be revisited and public participated by the EAP to address our client's concerns herein, and/or procure the</p>	<p>Concerns noted and responded to.</p> <p>All such comments and responses will form part of the Final BAR to be submitted to the competent authority in terms of the NEMA EIA regulations.</p>

	additional studies, assessments, authorisations and permits required for this purpose, before same can objectively and adequately be considered and assessed by our client , or for that matter, any objective and responsible party or Authority such as the Department.	
10	We trust you find the above in order and while we respectfully submit that the entire dBAR and public participation process embarked upon in that regard are defective, abortive and fatally flawed, we confirm that all our client's rights to elaborate on and/or amplify to contents of this objection and comments after our receipt of the final Basic Assessment Report herein (if any), are therefore formally reserved.	<p>The purpose of a draft BAR and public participation is to elicit comments and responses from I&APs, submission of such comment does not render the Public participation process either defective or abortive or fatally flawed – it is the PURPOSE of the process.</p> <p>There are no fatal flaws and short of a competitive interest, the objector has not raised any concerns or issues that cannot be clarified or addressed and included in the Final BAR for submission and consideration.</p>
11	Kindly acknowledge receipt thereof.	Receipt was acknowledged.

Adriaan Venter Attorneys & Associates – Adriaan Venter – 20 April 2022		
Additional comments on the Phase 1 Archaeological and Cultural Heritage Impact Specialist Report and the Conservation Management Plan submitted in respect of the proposed development of the Mal of the North West on Erf 11883 (a Portion of Erf 506), Vryburg		
Comment	Response	
1.	We refer to the above matter and confirm that we continue to act herein on behalf of Twin City Trading (Pty) Ltd, in its capacity as a duly registered interested and affected party	Noted.

	in respect of the abovementioned development project.	
2.	We, in the latter regard, confirm that we have already, on the 11 th of February 2022, lodged our client's formal comments and objection in respect of the draft Basic Assessment Report submitted in respect of this development project, and it is specifically herewith recorded that the contents of such objection, remain applicable.	Correct, comments included above.
3.	We, in response to our client's abovementioned comments and objection. Confirm that we have now been informed of the submission of an additional Phase 1 Archaeological and Cultural Heritage Impact Assessment (the " HIA ") and Conservation Management Plan (the " HMP "), in respect of which our client has been requested to submit its additional comments, which we hereby do.	Noted.
4.	Kindly therefore take note that the contents hereof, while same shall specifically pertain to the new HIA and HMP submitted in this regard, should not be read in isolation, but in addition to our client's abovementioned comments and objection which are	Noted, objection comments included and responded to above.

	<p>already on record, and all our client's interests, rights and <i>locus standi</i> recorder therein, consequently apply <i>mutatis mutandis</i> in this regard.</p>	
<p>5.</p>	<p>While we trust you find the above in order, we confirm that we, in order to avoid unnecessary confusion in this regard, shall hereinafter endeavour to utilise the same words and/or phrases defined in our client's abovementioned objection, and same should consequently be accepted as such, unless same are found to be irreconcilable with the content.</p>	<p>Noted.</p>
<p>6.</p>	<p>We, after our perusal of the new HIA and HMP submitted herein, wish to submit the following additional comments on behalf of our client:</p>	
<p>6.1.</p>	<p>The submission of this new HIA and HMP, albeit in accordance with the apparent demands of the South African Heritage Resources Agency ("SAHRA"), objectively support and prove our client's submissions contained in paragraphs 8.1 and 8.18 of its objection against the dBAR, i.e. that the dBAR has not been submitted with the required documentation and authorisations which should have been submitted</p>	<p>The HIA and HMP consist of additional information which was circulated for comment to I&As in terms of s19(1)(b). As such, it forms part of the Draft BAR.</p>

	therewith, and that such fact indeed render the dBAR incomplete and unable of being processed;	
6.2.	The HIA and HMP , in addition to the above and as has already been indicated by our client in respect of the dBAR and the public participation process utilised in that regard, are replete with incorrect, inconsistent and misleading property descriptions, which render same fatally defective;	The information contained within the HIA and HMP have been compiled by a specialist who is registered in this field. The property description is correct and there are no fatal flaws.
6.3.	The HIA and HMP , while it should be common cause from the dBAR that the development project also pertains to an additional area of land which falls outside of the boundaries of the subject property and which the Applicant intends to utilise for the construction of parking facilities for its intended development, as can be noted from the contents of Annexure A hereto, have conveniently failed and/or neglected to investigate and/or assess such adjacent portion of land (depicted in blue), which fact renders same fatally defective and unable of objectively being assessed and/or relied upon by SAHRA ; and	<p>The development does not pertain to any land outside of the property boundary.</p> <p>The HMP and HIA included the correct cadastral boundaries of Erf 11883 as such a study within the full boundary of the site was undertaken.</p>
6.4.	The authors of such HIA and HMP have therefore, either	Once again the objector is referring to the earlier cadastral error which has been corrected.

	<p>wilfully or negligently, as was similarly done by the EAP, utilised and/or indicated the incorrect property boundaries of the subject property, and have conveniently therefore refrained from assessing such adjacent portion of land, while same shall, if the Applicant is authorised to proceed with its intended development, irreversibly be sterilised and developed as a parking area.</p>	<p>The correct cadastral boundaries of Erf 11883 have been surveyed as such no areas were excluded from the study.</p>
<p>7.</p>	<p>While we trust you find our client's abovementioned additional comments to be self-explanatory, we must again at this stage record, as we herewith do, that all our client's rights to elaborate on and/or amplify such comments after our receipt of the final Basic Assessment Report and/or any possible amendments to the HIA and HMP, are and herewith remain, formally reserved.</p>	<p>The comment and responses as submitted will be circulated. The final BAR is submitted to DEDECT for decision-making purposes and is not distributed to I&Aps.</p>
<p>8.</p>	<p>Our client consequently, with due consideration of its abovementioned preliminary comments in respect of the new HIA and HMP, respectfully therefore submits that same should <i>de novo</i> be revisited, amplified and public participation, in order to address our client's comments and/or concerns herein, before same can objectively and</p>	<p>There is no requirement "de novo revisit" any aspects of this application. The Final BAR will be submitted for consideration to the relevant authority.</p>

	adequately be considered and assessed by our client , or for that matter, any objective and responsible party or Authority such as SAHRA , in support of the pending dBAR process of the Applicant .	
9.	Kindly acknowledge receipt hereof and keep us informed of any further progress made herein.	Acknowledgement of receipt has been provided.

In relation to both legal objections submitted, the applicant has provided a similar legal response which has been submitted to DEDECT (28 February 2022 and 25 April 2022). These legal responses are included in Annexure G which contains all the comments and responses but are not included in the table above as they do not require further response by the EAP.

6 CONCLUSION

In terms of the public participation process and authority comments raised, there are no matters that have not been satisfactorily answered or addressed and which would affect the decision making in this application. Any objections received have been adequately addressed in this document and all objections are related to competition, as such, it should not warrant rejection of the proposal.

This report forms part of the submission of the Final BAR to DEDECT for their review and decision making.

To conclude, all recommendations and concerns raised have been adequately taken in consideration and all possible impacts have been assessed and addressed through the Basic Assessment process.