



PUBLIC PARTICIPATION REPORT

FOR

HEAVY VEHICLE PARKING DEPOT – LYDENBURG (PORTION 42 OF THE FARM ROOIDRAAI 34 JT)

Ref nr: 17/2/S24G-03/2022/23

PREPARED FOR:

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Date: October 2022

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REPORT DETAILS

Title:	Final Public Participation Report for Heavy Vehicle Parking Depot - Lydenburg
Purpose of this report	<ul style="list-style-type: none"> To provide a formal and integrated record of all the issues raised by Interested and Affected Parties (I&APs) to date and the responses provided by the EIA Study Team. To provide a mechanism that allows all parties participating in the process (including the environmental authorities) to verify whether the issues raised have been considered and where appropriate, adequately addressed by the EIA Study Team.
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1.3 **Verification Statement**

I, Delia de Lange declare under oath that of –
The correctness of the information provided in the reports;
The inclusion of comments and inputs from stakeholders and I&AP's;
The inclusion of inputs and recommendations from the specialist reports where relevant;
Any information provided by the EAP to interested and affected parties and any responses by the EAP to comments or inputs by interested and affected parties.



Signature

October 2022
Date

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1. Introduction

The Public Participation report includes the comments received during the Public Participation Process undertaken as part of the Environmental Impact Assessment Process for the proposed project (as of 11 August 2015). The Comments and Responses Report has the following objectives:

- To provide a formal and integrated record of all the issues raised by Interested and Affected Parties (I&APs) to date and the responses provided by the EIA Study Team.
- To provide a mechanism that allows all parties participating in the process (including the environmental authorities) to verify whether the issues raised have been considered and where appropriate, adequately addressed by the EIA Study Team.

2. How issues have been raised

Issues have been raised and recorded through a variety of mechanisms. These include:

- Comments sheets received via e-mail;
- Comments received telephonically;
- Comments received during the DEIAr phase when adjacent landowners were visited;
- Comments received during the FEIAr phase.

3. Public Participation

3.1. Preliminary Public Participation Process (PPP)

Preliminary Public Participation was undertaken in accordance with Regulation 8 prior to the submission of the Application in order to notify the public of the intention of the Applicant to submit a Section 24G Application.

The Preliminary Public Participation undertaken entailed the following:

- A notice was placed in the Steelburger / Lydenburg News of 7 April 2022. (Refer to Appendix C, Appendix 1 in the FEIAr for the updated notice)

3.2. Subsequent Public Participation Process (PPP)

3.2.1. Procedure whereby I&APs were afforded the opportunity to participate

An updated notice notifying I&APs and stakeholders of the availability of the Draft EIR was provided to all I&APs and stakeholders (Refer to Appendix C, Appendix 2 in the FEIAr for the updated notice).

3.2.2. Site Notice

Notice boards were placed on the site where the activity occurred at two positions conspicuous to the public on 4 August 2022 (Refer to Appendix C, Appendix 3).

3.2.3. Written Notices

Notices were hand delivered to neighbouring properties on 4 August 2022 (Refer to Appendix C, Appendix 4).

Stakeholders, other I&APs and organs of state having jurisdiction in respect of any aspect of the activity, including the Ward Councillor were provided with an updated notice via e-mail on 4 August 2022.

Copies of the Draft EIR were submitted to Local Council and District Council.

3.2.4. The manner in which disadvantaged persons were accommodated in the PPP

The Public Participation Process took into account the local dynamics of the area as well as the needs of vulnerable groups in the area, such as illiterate individuals and people with disabilities in order to ensure that effected public participation take place.

Lokisa's Public Participation Officers are able to communicate in various official languages and the process was explained to occupiers of adjacent properties in the comfort of their homes / workplace.

Community members were able to register as Interested and Affected Parties on request, without having to leave their homes / workplace in order to use fax and/ or e-mail facilities, while obtaining particular knowledge of the information contained in the updated notice.

3.2.5. Comments received on the Preliminary Public Participation

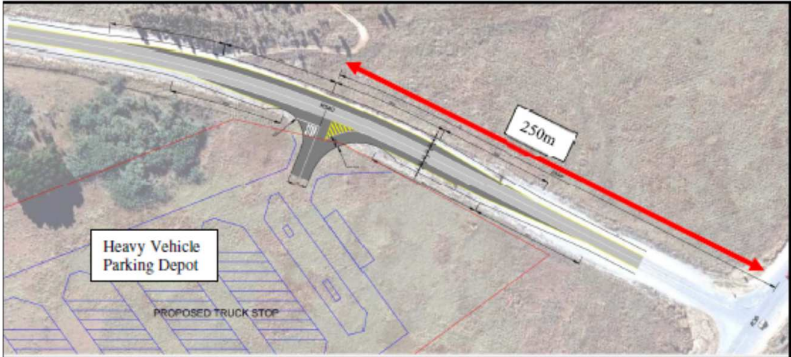
The Comments and Response Report includes the comments received during the Public Participation Process undertaken so far for the proposed project. This includes responses to the advertisements, individual discussions with key stakeholders, and any other comments received during the project timeframe up to 12 October 2022.

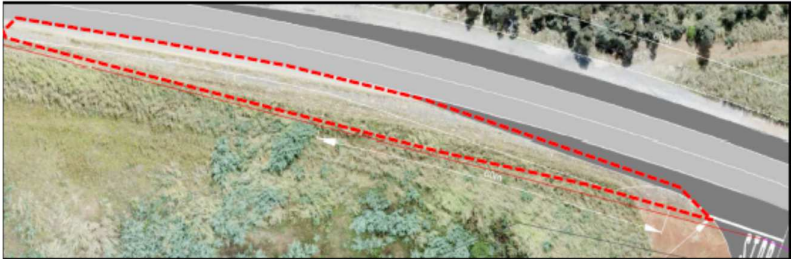
Comments reported within this Issues and Response Register were updated during the project. This document can therefore be considered as an active document up until the final reports are submitted.


Table 1: Comments and Issues Report

Issue	Commentator	Date	Response
Comments on Pre-Application Notice			
<p>Register as an Interested and Affected party on behalf of Beuka Ontwikkelings Trust.</p> <p>1. Please take note that the Mpumalanga Department of Agriculture, Rural Development, Land & Environmental Affairs (DARDLEA) have approved the construction and operation of a Filling Station and Truck Stop on Portion 43 (a portion of Portion 16) of the Farm Rooidraai 34 JT, Lydenburg, Thaba Chweu Local Municipality, which is adjacent to the proposed Lion Valley Truck Stop. We therefore object to the approval of an application for a truck stop at this location as construction is set to begin for the approved truck stop on the adjacent Portion 43.</p> <p>2. Should this application be continued with, it is recommended that a Traffic Impact Assessment and Stormwater Management Plan with designs of dirty and clean water management and catchment is completed in order to identify and mitigate the impacts associated with spills and dirty water runoff associated with a truck stop.</p>	<p>Louisa Thuynsma (Earth Optiva) on behalf of Beuka Ontwikkelings Trust</p>	<p>19 April 2022</p>	<p>Registered as an interested and affected party.</p> <p>1. The applicant is aware of the fact that land use rights for a public garage has been granted on Portion 43 of the farm Rooidraai 34 JT, however the proposed Truck Stop and Heavy Vehicle Parking Depot to be established on Portion 42 of the farm Rooidraai will be not be for the general public but is to allow for an overnight parking facility for the trucks of a Transport Contractor, who will rent and utilise the facility from the applicant. The applicant has an existing fueling facility in Lydenburg Town that service existing truck companies. Mine cargo and heavy trucks are no longer allowed on the municipal roads in Lydenburg. In order to continue to service its existing clients the applicant has acquired the subject property as an alternative location to establish the overnight parking area and fueling facility. The acquisition of the required land use rights within the existing spatial planning context will be dealt with in terms of the relevant municipal spatial planning and land use management legislation.</p> <p>2. A Traffic Impact Study has been conducted and in the process of being considered by the relevant Roads Authority (Refer to Appendix F).</p> <p>2.1 <u>Traffic Impact Study</u></p> <p>A traffic Impact study was undertaken by Hamatino Consulting Engineers. Access to the site will be provided from the existing provincial road P171/1 which</p>

Issue	Commentator	Date	Response
			<p>abuts the development along the northern boundary. Due to the fact that a Heavy Vehicle Parking Depot is mostly a trip interceptor, insignificant additional traffic will be added to the road network and the study focused on the access level of service and lane configuration (HAMATINO CONSULTING ENGINEERS, Traffic Impact Study, May 2022).</p> <p>A total of 4 262 Vehicles per day was recorded.</p> <p>The proposed new Heavy Vehicle Parking Depot will gain access via a new proposed access from Road P 171/1 which abuts the development along the northern boundary HAMATINO CONSULTING ENGINEERS, Traffic Impact Study, May 2022).</p> <p>The P171/1 – R540 intersection is becoming increasingly under pressure and is expected to be operating at a level of service F by the horizon year 2027. The above-mentioned intersections need therefore to be upgraded as soon as possible by the Mpumalanga Department of Public Works: Roads & Transport in order to be able to accommodate the existing 2022 background traffic demand as well as background growth (note that the upgrading proposal included below will also be able to accommodate the 2027 horizon year with an assumed 5% annual compounded background traffic growth) (HAMATINO CONSULTING ENGINEERS, Traffic Impact Study, May 2022).</p> <p>A new access to the property will be provided from Road P 171/1 (Roosenekal Road) and as far as possible from the existing P 171/1 – R540 intersection. Access to the Heavy Vehicle Parking Depot will be provided as depicted in figure 4 of Traffic Impact Study.</p>

Issue	Commentator	Date	Response
			<p data-bbox="1339 370 1751 391">FIGURE 4: PROPOSED ACCESS INTERSECTION</p>  <p data-bbox="1159 837 1944 889">The provision of a priority-controlled intersection (priority of movement provided along Road P 171/1) is proposed.</p> <p data-bbox="1159 922 1549 943">The geometry will include the following:</p> <ul data-bbox="1159 979 1944 1057" style="list-style-type: none"> • Westbound left turn deceleration and slip lane; • Eastbound passing lane (in accordance with typical standard drawings) • Westbound 60m taper lane (in accordance with typical standard drawings) <p data-bbox="1159 1114 1944 1224">The report recommended additionally that the road reserve to the west of the access intersection be cleared by the developer and the growth of vegetation be prohibited as depicted in figure 7 of the Traffic Impact Study (HAMATINO CONSULTING ENGINEERS, Traffic Impact Study, May 2022).</p>

Issue	Commentator	Date	Response
			<p data-bbox="1402 313 1682 334">FIGURE 7: AREA TO BE PAVED</p>  <p data-bbox="1159 678 1501 699"><u>2.2 Stormwater Management Plan</u></p> <p data-bbox="1159 732 1944 786">The Engineering Services Report included under Appendix F addresses Stormwater as follows:</p> <p data-bbox="1159 873 1944 954">Stormwater will be accommodated above surface in the road prism as far as possible. Provision will be made for subsurface stormwater drainage pipes where required to the standards prescribed in the <i>New Red Book</i>.</p> <p data-bbox="1159 1042 1944 1096">Stormwater Management Plan to be compiled and submitted together with building plans for approval.</p> <p data-bbox="1159 1183 1944 1237">The objective of a Storm Water Management Plan should be to manage the storm water resources to:</p> <ul data-bbox="1159 1263 1661 1284" style="list-style-type: none"> • Prevent flood damage or concentration of run-off,

Issue	Commentator	Date	Response
<p>3. The Applicant should appoint a registered terrestrial biodiversity specialist to conduct a specialist study identifying any sensitive vegetation and habitats that should be avoided as well as to identify any impacts that have already been caused.</p>			<ul style="list-style-type: none"> • Divert storm water and surface run-off from buildings, roads and the parking areas into a piped system with sand, oil and grease traps before it flows into bio swales or a stormwater attenuation pond. • Protect and cause the least impact on the existing environment (NICO SWANEPOEL CONSULTING ENGINEERS, Engineering Services Report, July 2022). <p>3. Terrestrial Biodiversity Study</p> <p>A 3.5ha area of the site was cleared of vegetation and no indigenous vegetation remains on the portion of the property where the Heavy Vehicle Parking Depot is proposed. The site falls in area that has fairly high levels of rural development and high levels of agricultural farmlands, which both have overall negative impacts on free-roaming wild fauna.</p>  <p>Figure 1 – Clearance of site</p>

Issue	Commentator	Date	Response
<p>4. The area is known for heritage finds, and it is therefore also recommended that a heritage specialist be appointed to assess the heritage sensitivity of the site and identify areas to be avoided during further construction and operation. In addition, the specialist report should be submitted to the South African Heritage Resources Agency (SAHRA) for comment.</p> <p>5. The Department of Water and Sanitation should be notified of the illegal commencement and planned application for the site, specifically with reference to:</p> <ul style="list-style-type: none"> - Ablution facilities and potable water - Dirty / clean water management 			<p>Clearance of the site was halted when the applicant was informed that Authorisation is required in terms of NEMA.</p> <p>As a result of the anthropogenic activities that took place on the property, it is highly unlikely that any species of conservation concern will be present on site.</p> <p>It was confirmed that the area cleared on vegetation is sufficient in size to accommodate the proposed facility and it was therefore not deemed necessary to undertake a Terrestrial Biodiversity study.</p> <p>4. Heritage</p> <p>A Heritage Impact Assessment will be conducted and included in the Final EIR.</p> <p>According to the SAHRIS PalaeoSensitivity Map, accessible at: https://sahris.sahra.org.za/map/palaeo; the majority of the project site (and the portion where the development is proposed) falls within a grey area with a sensitivity of insignificant / zero and no palaeontological studies are required.</p> <p>5. The Department of Water and Sanitation was provided with the Draft EIR and was also notified of the commencement of the clearance as well as the planned application for the site, specifically with reference to:</p> <ul style="list-style-type: none"> - Ablution facilities and potable water - Dirty / clean water management

Issue	Commentator	Date	Response
<p>6. In addition to the abovementioned specialist studies, the Department of Forestry, Fisheries and the Environment (DFFE) Screening Tool indicates a high Agricultural Theme Sensitivity, and requires an Agricultural Impact Assessment, Visual Impact Assessment and Socio-economic Impact Assessment to be completed.</p>			<p>6.1 Agricultural Impact Assessment,</p> <p>The National Screening Tool does not require an Agricultural Impact Assessment Refer to the Screening Tool included under Appendix G.</p> <p>The area to be utilised for the Truck stop and associated infrastructure is approximately 3.8ha in extent and the remaining 6.07 ha has been set aside for cultivation purposes. The proposed land use is furthermore in line with similar land uses that have been approved on the adjacent properties also on previous agricultural zoned land and no Agricultural Impact Assessment will be undertaken.</p> <p>The remainder if the site has been earmarked for crop production should it be required in future.</p> <p>6.2 Socio-economic Impact Assessment</p> <p>Social Impact Assessment includes the processes of analysing, monitoring and managing the intended and unintended social consequences, both positive and negative, of planned interventions (policies, programs, plans, projects) and any social change processes invoked by those interventions. Its primary purpose is to bring about a more sustainable and equitable biophysical and human environment Vanclay, F. 2003. International Principles for Social Impact Assessment. IMPACT ASSESSMENT & PROJECT APPRAISAL 21(1): 5-11).</p> <p>SEIA is the systematic analysis to identify and evaluate the potential socio-economic and cultural impacts of a proposed development on the lives and circumstances of people, their families and their communities. If such potential impacts are significant and adverse, SEIA can assist the developer, and other</p>

Issue	Commentator	Date	Response
			<p>parties to the EIA process, find ways to reduce, remove or prevent these impacts from happening. Impacts are potential changes caused – directly or indirectly, in whole or in part, for better or for worse – by industrial development activities.</p> <p>The value of a SEIA is acknowledged however the proposed development is in line with current developments in the immediate area which have been issued with a positive Environmental Authorization.</p> <p>South Africa furthermore has a free market system wherein the economy is predominately based on free market principles, with some state control. Foreign investment in all areas of the economy is active in both the private and public sectors. The only sectors in which certain restrictions apply are in banking, insurance and the broadcasting sectors. Competition in a market pressures businesses to improve their offerings, and those improvements pass on to clients in the form of more specific, efficient, and high-quality options. And the most apparent benefit to clients is lower prices and increased buying power.</p> <p>The applicant has an existing fuelling service in Lydenburg which is an existing service point of trucks. The proposed facility is predominantly the relocation of an existing facility as a result of the restriction of heavy cargo in Lydenburg. Furthermore the intended use of the Heavy Vehicle parking Depot is to service the vehicles of an existing client only.</p> <p>Local employment, Leswika La Nnete will be utilised for the associated on-site services, such as environmental care takers/ cleaners, security personnel and cooking staff.</p>

Issue	Commentator	Date	Response
<p>7. Additional concerns with relevance to a truck stop that need to be addressed by specialists are listed below. Should they not be conducted</p>			<p>The proposed facility will improve the conditions for truck drivers who have to drive long hours and distances.</p> <p>Leswika La Nnete furthermore submitted a written recommendation in support of the development.</p> <p>The proposed development is therefore believed to have positive socio-economic impacts and is in line with the various non-residential uses taking place along the main routes of Mashishing and thus a socio-economic impact assessment was not deemed necessary.</p> <p>6.3 Visual Impact Assessment</p> <p>According to (Barnard, 1999) a new development should aim to be attractive and visually pleasing. It should preferably improve the visual quality of the area and at the very least avoid visual degradation of the area.</p> <p>The development will be established in a manner that aims to prevent any negative visual impact. It should also be noted that the site falls within an area away from high density residential areas and in an agricultural area, thus minimising the possibility of any visual impact and as such a Visual/Landscape Impact Assessment was not deemed necessary.</p> <p>Furthermore there is a line of trees along the western boundary of the application site which forms a natural barrier / buffer with adjacent rural residential uses.</p> <p>7.1 Air Quality Impact Assessment (fuel emission impacts from trucks);</p> <p>Emissions during the construction phase will mostly be in the form of dust.</p>

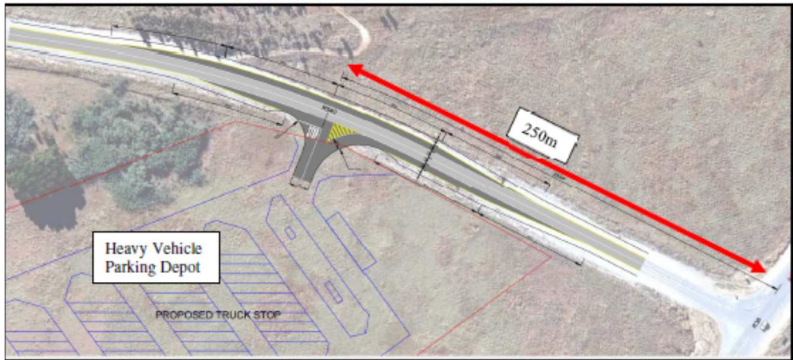
Issue	Commentator	Date	Response
<p>for the proposed development, reasons should be provided for their exclusion or non-completion:</p> <ul style="list-style-type: none"> - Air Quality Impact Assessment (fuel emission impacts from trucks); - Noise Impact Assessment. <p>8. Of great concern is the cumulative impacts that might result from approving an application for a truck stop adjacent to another truck stop and filling station. These should be assessed and discussed extensively within the report.</p>			<p>It is proposed that the internal circulation streets around the parking areas will be constructed with mountable kerbs and that the streets will be surfaced with either precast concrete paving blocks or asphalt surfacing to mitigate air pollution (Dust from vehicle movement).</p> <p>Additional air pollution during the operational phase is not expected however, vapor from vehicles and during the re-fuelling could occur.</p> <p>7.2 Noise Impact Assessment.</p> <p>The property is situated in an area where there are busy feeder roads being the R577 and R540. There is a continuous flow of traffic during the day along the R577.</p> <p>General construction noise will occur as a result of the construction activities. Construction activities should be limited to business hours, and no construction should take place on weekends and public holidays.</p> <p>Minimal noise will be generated by the trucks at the facility during the operational phase. The design of the facility is of such a nature that it provides for an internal "ring road" for easy access and turnaround space for trucks. The trucks therefore do not have to idle or make use of their reverse signals.</p> <p>The facility's gates will be closed from 18:00 to 06:00 and no trucks will be allowed during this time. No provision will be made for areas or opportunities for the truck drivers to socialize.</p> <p>8. Cumulative impacts</p>

Issue	Commentator	Date	Response
			Refer to Section 6.4 in the EIR.
<p>Afroflo is the registered owner of Portion 41 of the farm Rooibraai 34 JT and their property borders Portion 42 of the farm Rooibraai 34 JT (subject site). Request to be registered as an I&AP.</p> <p>1. <u>Risk of potable water contamination</u> Their borehole for potable water purposes is situated approx. 70m to the east from the proposed truck stop. The natural topographic drainage slope is directly towards their borehole, meaning there is a real and serious risk any contamination occurring on portion 42 will reach their borehole. The proposed trucks top facility will refuel and/or service vehicles causing risk in terms of any fuel or oil spillages. There is no municipal sewage service available and since the natural drainage slope is towards their borehole it means there is a real risk of sewerage water will reach their underground drinking water with serious consequences. These properties are located in a high rainfall area of between 650- 850 mm per annum with no municipal storm water service resulting in an additional risk for any contaminants to be transported with runoff rainwater directly in the direction of their borehole.</p>	Afroflo	20 April 2022	<p>Registered as an interested and affected party.</p> <p>1. <u>Risk of potable water contamination</u></p> <p>The Engineering Services Report included under Appendix F addresses Stormwater as follows:</p> <p>Stormwater will be accommodated above surface in the road prism as far as possible. Provision will be made for subsurface stormwater drainage pipes where required to the standards prescribed in the <i>New Red Book</i>.</p> <p>Stormwater Management Plan to be compiled and submitted together with building plans for approval.</p> <p>The objective of a Storm Water Management Plan should be to manage the storm water resources to:</p> <ul style="list-style-type: none"> • Prevent flood damage or concentration of run-off, • Divert storm water and surface run-off from buildings, roads and the parking areas into a piped system with sand, oil and grease traps before it flows into bio swales or a stormwater attenuation pond. • Protect and cause the least impact on the existing environment (NICO SWANEPOEL CONSULTING ENGINEERS, Engineering Services Report, July 2022).

Issue	Commentator	Date	Response
<p>2. <u>Risk of soil contamination</u> Sewerage water, oil and fuel spillages will have an adverse negative effect on the soil. The natural gradient drainage slope is directly towards their property and any sewerage water or fuel/oil spillage will reach their property and contaminate their soil with dire consequences.</p> <p>3. <u>Air pollution</u> Trucks are diesel powered and as such gives off emissions. If the complete area of the proposed truck stop is not properly paved or tared any vehicle movement will cause a lot of dust pollution. These diesel emissions and dust will be transported via wind to all adjacent neighbors which poses a serious health risk to all.</p>			<p>The internal water reticulation system will consist of HDPE pipes of sufficient capacity and strength installed from the bulk water storage facility located at the borehole. It will be designed to cater for the peak demand. Provision will be made for elements such as fire hydrants, scour valves, air valves and isolation valves. Initially the internal water reticulation system will be maintained by the developer.</p> <p>Currently there is no Municipal sewer reticulation system in the area. All the properties in the immediate vicinity as well as the property to be developed use on-site sanitation systems. It is proposed that the development uses an on-site conservancy tank system as the use of septic tanks with soak away French drains is not acceptable in view of possible contamination of groundwater sources.</p> <p>The Ablution and other facilities with grey water outlet system will be connected to a Conservancy tank system with adequate capacity. The developer will appoint and enter into an agreement with a specialist service provider to empty the conservancy tank as and when required.</p> <p>2. <u>Soil contamination</u> It is proposed that the parking areas layer works will be constructed to form a tanked system which is lined with either LDPE or HDPE impervious membranes to create a 'tank' and thereby capture and store the water for reuse in grey water and irrigation systems. The impervious membrane is required to restrict water from entering the subgrade and thereby preserve groundwater quality integrity of this layer.</p> <p>3. <u>Air pollution</u> Emissions during the construction phase will mostly be in the form of dust.</p> <p>It is proposed that the internal circulation streets around the parking areas will be constructed with mountable kerbs and that the streets will be surfaced with</p>

Issue	Commentator	Date	Response
<p>4. <u>Noise and light pollution</u> During the construction phase the noise levels will increase dramatically. The site is situated in an area which is zoned for agricultural purposes. A truckstop is typically open for business 24 hours a day. This will mean noise and light pollution 24 hours a day. In addition, it will lead to an increase in crime.</p>			<p>either precast concrete paving blocks or asphalt surfacing to mitigate air pollution (Dust from vehicle movement).</p> <p>Additional air pollution during the operational phase is not expected however, vapor from vehicles and during the re-fuelling could occur.</p> <p>4. <u>Noise and light pollution</u> The property is situated in an area where there are busy feeder roads being the R577 and R540. There is a continuous flow of traffic during the day along the R577.</p> <p>General construction noise will occur as a result of the construction activities. Construction activities should be limited to business hours, and no construction should take place on weekends and public holidays.</p> <p>Minimal noise will be generated by the trucks at the facility during the operational phase. The design of the facility is of such a nature that it provides for an internal "ring road" for easy access and turnaround space for trucks. The trucks therefore do not have to idle or make use of their reverse signals.</p> <p>The facility's gates will be closed from 18:00 to 06:00 and no trucks will be allowed during this time. No provision will be made for areas or opportunities for the truck drivers to socialise.</p> <p>Light pollution will be minimised on the project site and lights at the facility will be sufficient for safety and security purposes but will not be intrusive to neighbouring residents or interfere with road traffic.</p> <p>Outside lights will have to be downward shining (eyelid type), low wattage and should not be positioned higher than 1 m above the ground surface. Lights will be directed to only shine on certain areas of the project site e.g. ablution facility, corner posts and the middle of the facility.</p>

Issue	Commentator	Date	Response
<p>5. <u>Land use rights</u> Portion 42 of the farm Rooidraai 34 JT is agricultural land and as such does not have any land use rights to conduct the business of a truckstop.</p> <p>6. <u>Road Access</u> Portion 42 does not have any approved access from the R577 Road. Their land shares a direct border with Portion 42. There is no right of way servitude registered in favour of Portion 42 to gain access from the R577 Road.</p>			<p>Security guards will be present at the entrance to the Truck Stop and the facility will be fenced with a 2.1 m high fence.</p> <p>5. <u>Land use rights</u> The necessary land use rights for a Truck Stop and Heavy Vehicle Parking Depot to allow for an overnight heavy vehicle parking and fuelling facility will be obtained in terms of the required procedures in terms of the Thaba Chweu Spatial Planning and Land Use Management By-Laws, 2016.</p> <p>6. <u>Road Access</u> The comment in regard to a Right of Way has no substance. Provincial Roads are proclaimed roads, and land owners were generally compensated for the land during the process to proclaim the provincial road and the land owner were exempted from any responsibility on the provincial road reserve. The provincial roads authority is the relevant authority to investigate and deal with the access considerations. This is also the reason why the applicant has approached the relevant roads authority for access approval.</p> <p>A new access to the property will be provided from Road P 171/1 (Roosenekal Road) and as far as possible from the existing P 171/1 – R540 intersection. Access to the Heavy Vehicle Parking Depot will be provided as depicted in figure 4 of Traffic Impact Study.</p>

Issue	Commentator	Date	Response
			<p align="center">FIGURE 4: PROPOSED ACCESS INTERSECTION</p> 
<ol style="list-style-type: none"> 1. We refer to a legal notice published on 7 April 2022 in the Steelburger / Lydenburg News regarding the application for consequences of unlawful commencement / continuation of listed activities in accordance with section 24G read with 24F of the Environmental Management Act 107 of 1998. 2. The matter relates <i>inter alia</i> to the unlawful removal of indigenous vegetation on the property known as Portion 42 of the Farm Roodraai 34 JT, 3. We confirm that we act for and on behalf of Afroflo (Pty) Ltd, registration number 2017/075414/07 ("Afroflo"). Afroflo is the registered owner of the property known as Portion 41 of the Farm Roodraai, 34 JT, held under title deed T6114/2020 4. This property is located across the road from the property for which the above application is being made. 	<p>Jaco Steyn JS Consulting</p>	<p>1 May 2022</p>	<ol style="list-style-type: none"> 1. The statement is noted and no response is required. 2. The statement is noted and no response is required. 3. The statement is noted and no response is required. 4. The statement is noted and no response is required.

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<p>5. Moreover, Afroflo had applied for, and has been granted environmental authorisation for the construction of a filling station and truck stop under reference 1/3/1/16/1E-287 and NEAS reference number MPP/EIA/0000793/2020. Afroflo is in the process of applying for site and retail licences in accordance with the Petroleum Products Act 120 of 1977 (“PPA”)</p> <p>6. Afroflo is thus a party that will be negatively affected by the above application. We have noted your email dated 20 April 2022 in which you had confirmed to Mr Eben Marais that Afroflo had already been registered as an Interested and Affected Party (“I&AP”). We kindly request that you add this email address: jsconsult@mailbox.co.za to your register and send all correspondence to both this email and Mr Eben Marais’ email address.</p> <p>7. In addition to the comments already forwarded to you by Mr Marais, Afroflo will also henceforth supplement its objection as set out below.</p> <p>Legislative Framework</p> <p>8. Section 24 of the Constitution of the Republic of South Africa, 1996 (“the Constitution”) states <i>“Everyone has the right to an environment that is not harmful to their health or well-being and to have the environment protected through reasonable legislative measures”</i></p> <p>9. The National Environmental Management Act 107 of 1998 (“NEMA”) is the legislation that aims to give effect to section 24 of the Constitution 10.</p> <p>10. In order to achieve this, NEMA together with the Environmental Impact Assessment Regulations, 2014 (“EIA Regulations”), has</p>			<p>5. The statement is noted and no response is required.</p> <p>6. We take note that Afroflo is a party that believes it will be negatively affected by the above application. In an email dated 20 April 2022 it was confirmed that Mr Eben Marais of Afroflo was registered as an Interested and Affected Party (“I&AP”). Furthermore, as per the request jsconsult@mailbox.co.za was also registered and all correspondence are to be sent to both this email and Mr Eben Marais’ email address.</p> <p>7. The statement is noted and no response is required.</p> <p>Legislative Framework</p> <p>8. The statement is noted and no response is required.</p> <p>9. The statement is noted and no response is required.</p> <p>10. The statement is noted and no response is required.</p>

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<p>identified activities that may result in substantial impacts to the environment.</p> <p>11. NEMA and the EIA Regulations require that an environmental impact assessment process be undertaken for these activities and submitted to the relevant authority for consideration.</p> <p>12. Commencement with any of the listed activities prior to obtaining authorisation from the relevant authority is legally prohibited and constitutes a criminal offence.</p> <p>13. Section 24F(1)(a) of NEMA states: “Notwithstanding any other Act, no person may commence an activity listed or specified in terms of section 24(2)(a) or (b), unless the competent authority or the Minister responsible for mineral resources, as the case may be, has granted an environmental authorisation for the activity.</p> <p>14. Section 24(2)(a) of NEMA states: “The Minister, or the MEC with the concurrence of the Minister, may identify activities which may not commence without environmental authorisation, from the competent authority”</p> <p>15. It was admitted by the applicant that it had contravened section 24F by undertaking listed activities which may not be undertaken without environmental authorisation.</p> <p>16. Section 24G of NEMA does however provide for the rectification of contraventions of section 24F subject to specific requirements.</p>			<p>11. The statement is noted and no response is required.</p> <p>12. The statement is noted and no response is required.</p> <p>13. The statement is noted and no response is required</p> <p>14. The statement is noted and no response is required.</p> <p>15. The statement is noted and no response is required.</p> <p>16. The statement is noted and no response is required.</p>

Issue	Commentator	Date	Response
<p>17. Section 24G(1)(a) of NEMA states:</p> <p>“On application by a person who has commenced with a listed or specified activity without an environmental authorisation in contravention of section 24F(1), the Minister, Minister responsible for mineral resources or MEC concerned, as the case may be, may direct the applicant to –</p> <p>(i) immediately cease the activity pending a decision on the application submitted in terms of this subsection;</p> <p>(ii) investigate, evaluate and assess, the impact of the activity on the environment;</p> <p>(iii) remedy any adverse effects of the activity on the environment;</p> <p>(iv) cease, modify or control any act, activity, process or omission causing pollution or environmental degradation;</p> <p>(v) contain or prevent the movement of pollution or degradation of the environment;</p> <p>(vi) eliminate any source of pollution or degradation;</p> <p>(vii) complies a report containing -</p> <p>(aa) a description of the need and desirability of the activity;</p> <p>(bb) an assessment of the nature, extent, duration and significance of the consequences for or impact on the environment of the activity, including the cumulative effects and the manner in which the geographical, physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity;</p>			<p>17. The statement is noted and no response is required.</p>

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<p>(cc) a description of mitigation measures undertaken or to be undertaken in respect of the consequences for or impact on the environment of the activity;</p> <p>(dd) a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed;</p> <p>(ee) an environmental management programme; or</p> <p>(viii) provide such other information or undertake such further studies as the Minister, Minister responsible for mineral resources or MEC, as the case may be, may deem necessary.</p> <p>18. Section 24G(2) states:</p> <p>“The Minister, Minister responsible for mineral resources or MEC concerned must consider any report or information submitted in terms of subsection (1) and thereafter may-</p> <p>(a) refuse to issue an environmental authorisation; or</p> <p>(b) issue an environmental authorisation to such person to continue, conduct or undertake the activity subject to such conditions as the Minister, Minister responsible for mineral resources or MEC may deem necessary, which environmental authorisation shall only take effect from the date on which it has been issued; or</p> <p>(c) direct the applicant to provide further information or take further steps prior to making a decision provided for in paragraph (a) or (b).</p>			<p>18. The statement is noted and no response is required.</p>

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<p>19. Section 24G(3) of NEMA further states -</p> <p>“The Minister, Minister responsible for mineral resources or MEC may as part of his or her decision contemplated in subsection (2) (a), (b) or (c) direct a person to-</p> <p>(a) rehabilitate the environment within such time and subject to such conditions as the Minister, Minister responsible for mineral resources or MEC may deem necessary; or</p> <p>(b) take any other steps necessary under the circumstances.</p> <p>20. Section 24G(4) states –</p> <p>“A person contemplated in subsection (1) must pay an administrative fine, which may not exceed R5 million and which must be determined by the competent authority, before the Minister, Minister responsible for mineral resources or MEC concerned may act in terms of subsection (2) (a) or (b).”</p> <p>21. Section 24G(5) further states –</p> <p>“In considering a decision contemplated in subsection (2), the Minister, Minister responsible for mineral resources or MEC may take into account whether or not the applicant complied with any directive issued in terms of subsection (1) or (2)”</p> <p>22. Section 24G(6) holds –</p>			<p>19. The statement is noted and no response is required.</p> <p>20. The statement is noted and no response is required.</p> <p>21. The statement is noted and no response is required.</p> <p>22. The statement is noted and no response is required.</p>

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<p>“The submission of an application in terms of subsection (1) or the granting of an environmental authorisation in terms of subsection (2) (b) shall in no way derogate from-</p> <p>(a) the environmental management inspector's or the South African Police Services' authority to investigate any transgression in terms of this Act or any specific environmental management Act;</p> <p>(b) the National Prosecuting Authority's legal authority to institute any criminal prosecution.”</p> <p>23. Finally, section 24G(7) states –</p> <p>“If, at any stage after the submission of an application in terms of subsection (1), it comes to the attention of the Minister, Minister for mineral resources or MEC, that the applicant is under criminal investigation for the contravention of or failure to comply with section 24F(1) or section 20(b) of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), the Minister, Minister responsible for mineral resources or MEC may</p> <p>defer a decision to issue an environmental authorisation until such time that the investigation is concluded and-</p> <p>(a) the National Prosecuting Authority has decided not to institute prosecution in respect of such contravention or failure;</p> <p>(b) the applicant concerned is acquitted or found not guilty after prosecution in respect of such contravention or failure has been instituted; or</p> <p>(c) the applicant concerned has been convicted by a court of law of an offence in respect of such contravention or failure and the applicant has</p>			<p>23. The statement is noted and no response is required.</p>

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<p>in respect of the conviction exhausted all the recognised legal proceedings pertaining to appeal or review.”</p> <p>24. In addition to those sections of NEMA cited above, the applicants’ actions are also in contravention of the Petroleum Products Act (“PPA”) and must be investigated in terms thereof. Section 2A(1)(c) of the PPA states –</p> <p>“A person may not hold or develop a site without there being a site licence for that site issued by the Controller of Petroleum Products”</p> <p>25. Section 12(1) of the PPA further states:</p> <p>“Any person who contravenes a provision of this Act, shall be guilty of an offence and be liable on conviction to a fine not exceeding R 1 000 000,00, or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.....”</p> <p>26. With the above in mind, we will now provide comments in objection to the applicant’s application.</p> <p>Comment 1: Pending EIA Investigation</p> <p>27. We attach herewith a letter marked as “EM 1” wherein a complaint has been lodged with the Department Mpumalanga Agriculture, Rural Development, Land and Environmental Affairs, with a request that there be an investigation into the unlawful activities and an official report thereon.</p>			<p>24 The clearance of the site and establishment of the Heavy Vehicle Parking Depot does not require a licence in terms of the PPA. Only when storage of fuel takes place is a licence required. The aforementioned licence will be applied for once storage of fuel on site is required.</p> <p>25. The statement is noted and no response is required.</p> <p>26. The statement is noted and no response is required.</p> <p>Comment 1: Pending EIA Investigation</p> <p>27. It is understood that a complaint has been lodged with the Department Mpumalanga Agriculture, Rural Development, Land and Environmental Affairs, with a request that there be an investigation into the unlawful activities and an official report thereon however the Applicant on realising that the activities that have been undertaken required NEMA Authorisation submitted an Application in terms of S24G of the National Environmental</p>

Issue	Commentator	Date	Response
<p>28. The applicant is advised to not proceed further with its application until the requested investigation has been finalised, we have been provided an official report, and such findings have been included in the applicant's section 24G application.</p> <p>Comment 2: Pending PPA Investigation</p> <p>29. We attach herewith marked as "EM 2", a compliant to the Controller of Petroleum Products regarding contravention of section 2A(1)(c) of the PPA.</p> <p>30. The applicant is advised to not proceed further with the above application until such time as the Controller of Petroleum Products has investigated that matter, taken appropriate steps, and such steps have been reported in the applicant's section 24G application.</p>			<p>Management Act, 1998 (Act No. 107 of 1998) to MDARLEA on 29 April 2022.</p> <p>28. Section 24G of the NEMA, <u>without affecting any criminal liability of a person who has acted in contravention of the above</u>, makes provision for that person to submit an application to the relevant MEC/Minister, which, if successful, will enable that person lawfully to continue with the listed activity and/or legalise an otherwise unlawful structure and the I&AP cannot deny the applicant the right to submit or withhold his application. Furthermore, neither the submission of this application, nor the payment of the administrative fine implies that authorisation will be issued for the continuation of an activity/activities that commenced, undertaken and/or conducted unlawfully. The decision will depend on the merits of the application itself and the decision of the MEC will be adhered to.</p> <p>Comment 2: Pending PPA Investigation</p> <p>29. The statement is noted and no response is required</p> <p>30. The S24G application relates to the clearance of vegetation for a Heavy Vehicle Parking Facility and no fuel is being stored on site nor has any facilities for the storage of fuel been constructed and it is what the Controller of Petroleum Products should investigate at this stage. Once the S24G process has run its course an application will be submitted to the Controller of Petroleum Products for the storage of 23m3 on site for refuelling of the tenant's trucks.</p>

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<p>Comment 3: Inadequate Notice of Application</p> <p>31. It is submitted that the applicant had failed to properly inform potential I&AP's as required by NEMA.</p>			<p>Comment 3: Inadequate Notice of Application</p> <p>31. The following procedure is to be followed regarding Pubic Participation in terms of the Regulations relating to the procedure to be followed and criteria to be considered when determining an appropriate fine in terms of Section 24G of the National Environmental Management Act, 1998 (Act No 107 of 1998) section 8:</p> <ul style="list-style-type: none"> (1) Prior to the submission of an application terms of section 24G of the Act, the applicant must place a preliminary advertisement in- (a) a local newspaper in circulation in the area in which the activity was, or activities were, commenced; and on the applicant's website, if any. (2) This advertisement must comply with the requirements set out in Annexure A, Section D. (3) The applicant must open and maintain of a register of interested and affected parties. (4) The register must be attached to the application form and included in the report, or form part of the information submitted in terms of section 24G(1) of the Act, which register must, as a minimum, contain the names, contact details and addresses of- (a) all persons who, as a consequence of the public participation process conducted in respect of the application, have submitted written comments or attended meetings with the applicant or any environmental assessment practitioner or other specialist appointed by the applicant to assist with the application; b) all persons who have requested the applicant, in writing, to place their names on the register; and all organs of state that have jurisdiction in respect of the activity to which application relates. <p>Furthermore, the following is taken from the MDARDLEA Application in terms of S24G of the National Environmental Management Act, 1998 (Act No. 107 of 1998).</p>

Issue	Commentator	Date	Response
			<p>When submitting the application form, the applicant must attach proof that the application has been advertised in at least one local newspaper in circulation in the area in which the activity was commenced, and on the applicant's website, if any.</p> <p>The advertisement must state that the applicant commenced a listed or specified activity or activities or waste management activity or activities without the necessary environmental authorisation and/or waste management license and is now applying for ex post facto approval. It must include the following:</p> <ul style="list-style-type: none"> • the date; • the location; • the applicable legislative provision contravened; and • The activity or activities commenced with without the required authorisation. <p>Interested and affected parties must be provided with the details of where they can register as an Interested and affected party and I or submit their comment. At least 20 days must be provided in which to do so.</p> <p>This advertisement shall be considered as a preliminary notification and the competent authority may direct the applicant to undertake further public participation and advertising after receipt of the application form.</p> <p>The above was adhered to and a Notice was placed in the Steelburger / Lydenburg News Of 7 April 2022.</p>

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<p>32. To ensure a fair and proper public participation process, the applicant must, after the investigations mentioned above have been finalised and such reports included as comments, republish notices of its application and hand-deliver notices to all potential I&AP's, and provide them with a further 30 days to submit comments in respect of the section 24G application.</p> <p>Comment 4: Administrative Fine</p> <p>33. Once such reports of the above investigations have been included in the applicant's section 24G application together with further comments from I&AP's, the applicant is requested to inform us about the quantum of the administrative fine imposed by the competent authority and provide proof of payment thereof by the applicant.</p> <p>Comment 5: Potential Avoidance of Requirements for EIA Applications</p> <p>34. It is submitted that the specific requirements to obtain EIA authorisation were included in NEMA to ensure a fair and transparent process.</p>			<p>Subsequent Public Participation conducted is described in Section 4 of the EIR.</p> <p>32. It is agreed that to ensure a fair and proper public participation process, the applicant must, after the investigations mentioned above have been finalised and such reports included as comments, republish notices of its application and hand-deliver notices to all potential I&AP's, and provide them with a further 30 days to submit comments in respect of the section 24G application.</p> <p>Subsequent Public Participation conducted is described in Section 4 of the EIR.</p> <p>Comment 4: Administrative Fine</p> <p>33. It is agreed that once such reports of the above investigations have been included in the applicant's section 24G application together with further comments from I&AP's, the applicant is requested to inform I&AP's about the quantum of the administrative fine imposed by the competent authority and provide proof of payment thereof by the applicant.</p> <p>Comment 5: Potential Avoidance of Requirements for EIA Applications</p> <p>34. It is agreed with the comment that the specific requirements to obtain EIA authorisation were included in NEMA to ensure a fair and transparent process.</p>

Issue	Commentator	Date	Response
<p>35. We are concerned that there may be potential that an application in terms of section 24G may side-step many of these checks and balances.</p> <p>36. it is therefore essential that the applicant proves that it has taken steps <i>mutatis mutandis</i> the same as those required under normal circumstances to ensure a fair process including adequate public participation and access to reports for commenting thereon. Failure to do so will result in a flawed and unfair process which will be subject to an appeal.</p> <p>Comment 6: Access to Records</p> <p>37. In addition to what has been stated above, the applicant is requested to provide us with full copies of studies and draft reports so directed by the competent authority, and to provide us adequate time for commenting thereon, prior to submission of final reports to the competent authority.</p> <p>Comment 7: Additional Contraventions of Section 24F</p> <p>38. We submit that, in addition to the contraventions already admitted to by the applicant, it had intended to contravene additional listed activities such as the storage of dangerous goods in capacities higher than 80 cubic metres owing to the fact that the applicant intends to build a filling station and truck stop</p>			<p>35. The concern is noted that the I&AP believes that there may be potential that an application in terms of section 24G may side-step many of these checks and balances however the EAP will endeavour that the required information is obtained.</p> <p>36. The Applicant, via the Independent Assessment Practitioner, will ensure a fair process including adequate public participation and access to reports for commenting thereon.</p> <p>Comment 6: Access to Records</p> <p>37. All I&AP with be provided with full copies of studies and draft reports so directed by the competent authority, and to provide the I&Ap adequate time for commenting thereon, prior to submission of final reports to the competent authority.</p> <p>Comment 7: Additional Contraventions of Section 24F</p> <p>38. The intention is not to build a filling station but to store 23m3 on site for overnight parking of trucks and as this activity was not undertaken it was not included in the S24G application.</p>

Issue	Commentator	Date	Response
<p>39. This is something that the competent authority must consider when determining an administrative fine and deciding on the applicant's section 24G application.</p> <p>Comment 8: No Need or Desirability</p> <p>40. As the competent authority should be aware, it had already granted environmental authorisation to Beuka Ontwikkelings Trust for a filling station and truck stop in respect of Portion 43, a Portion of Portion 16, Mpumalanga, which property is situated right next to the applicant's property, on the same side of the road.</p> <p>41. Additionally, the competent authority had granted environmental authorisation to Afroflo in respect of Portion 41 of the Farm Rooidraai, 34 JT, which property is situated across the road from the applicant's property.</p> <p>42. An environmental authorisation is a limited right granted to an applicant which allows them a specified period to commence with the listed activities concerned.</p> <p>43. Although these rights are not absolutely exclusive, their very nature do provide some level of exclusivity for as long as they remain valid.</p>			<p>39. The competent authority will be provided with the full project description which will also address the storage of fuel proposed.</p> <p>Comment 8: No Need or Desirability</p> <p>40. The Environmental Officer of the competent authority confirmed that they are aware of the environmental authorisation that was granted to Beuka Ontwikkelings Trust for a filling station and truck stop in respect of Portion 43, a Portion of Portion 16, Mpumalanga and that this property is situated right next to the applicant's property, on the same side of the road. The official furthermore confirmed that they were not informed of the commencement of construction within 14 days of commencement.</p> <p>41. It is noted that the competent authority had granted environmental authorisation to Afroflo in respect of Portion 41 of the Farm Rooidraai, 34 JT, which property is situated across the road from the applicant's property.</p> <p>42. It is agreed that environmental authorisation is a limited right granted to an applicant which allows them a specified period to commence with the listed activities concerned.</p> <p>43. This comment is noted.</p>

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<p>44. Although neither Afroflo nor Beuka Ontwikkelings Trust have commenced with the authorised activities, this does not detract from the fact that they still possess these rights.</p> <p>45. It is common cause that there is no need or desirability to have three truck stops and filling stations right next to one another and no reasonable person could come to a different conclusion.</p> <p>46. If the competent authority were to grant the applicant's request, this would destroy the merits on which the other two environmental authorisations were granted.</p> <p>47. Should Afroflo or Beuka Ontwikkelings Trust fail to exercise their rights within the time periods allowed under their respective environmental authorisations, the applicant will be welcome to re-apply for environmental authorisation and the competent authority will re-assess the need and desirability with consideration of the change in circumstances.</p> <p>Comment 9: Socio-Economic Impact</p> <p>48. The addition of a third filling station and truck stop in such close proximity to the others will render all three businesses uneconomical and have a severe socioeconomic impact on the owners and staff of both Afroflo and Beuka Ontwikkelings Trust.</p>			<p>44. As clearance of the site has taken place Beuka Ontwikkelings Trust has commenced with the authorised activity however Afroflo has not yet commenced, however this does not detract from the fact that they still possess these rights.</p> <p>45. The applicant does not intend to establish a filling station but an overnight parking facility for the use of his client's trucks and this is what has determined the need for the project.</p> <p>46. The two environmental authorisations that were granted have created a precedence for land uses on the intersection of the R577 and R540 and the proposal is in line therewith.</p> <p>47. The applicant cannot be held at ransom until Afroflo or Beuka Ontwikkelings Trust have decided to exercise their rights within the time periods allowed under their respective environmental authorisations.</p> <p>Comment 9: Socio-Economic Impact</p> <p>48. The project does not include a filling station and an overnight parking facility in such close proximity to the others are in line with the requirements of a free economy in which competition ensures the best product for the consumer.</p>

Issue	Commentator	Date	Response
<p>49. The Constitutional Court in <i>Fuel Retailers Association of South Africa v Director-General Environmental Management, Department of Agriculture, Conservation and Environment, Mpumalanga Province and Others</i>, 2007 (10) BCLR 1059 (CC), in a judgment by Ngcobo J found the following on page 1089 [89]:</p> <p><i>"... NEMA required the environmental authorities to consider the impact of the proposed filling station on socio-economic conditions and thereafter to make a decision that is appropriate in the light of such a consideration."</i></p> <p>50. From a reading of NEMA and the above Constitutional Court judgment, it is clear that the applicant must investigate and report on the impact the proposed new filling station will have on Afroflo and Beuka Ontwikkelings Trust to enable the competent authority to make a proper decision. Failure to do so will render the application incomplete and it must accordingly be refused.</p> <p>51. Unless this aspect is thoroughly investigated and a proper impact assessment report submitted, the competent authority will have no choice but to refuse this application.</p> <p>52. We further submit that the direct financial impact the new proposed site will have on Afroflo and Beuka Ontwikkelings Trust, absolutely outweighs any right or benefit the applicant might purport to have or be entitled to.</p>			<p>49. Note is taken of the comment.</p> <p>50. As no filling station is proposed there does not seem a need to investigate and report on the impact the proposed development will have on Afroflo and Beuka Ontwikkelings Trust.</p> <p>51. The final EIR will be submitted to the Competent Authority for comment and should they require additional information this will be obtained and provided.</p> <p>52. We take note of the comment but argue that as a filling station is not proposed there is no direct financial impact on the I&AP's.</p>

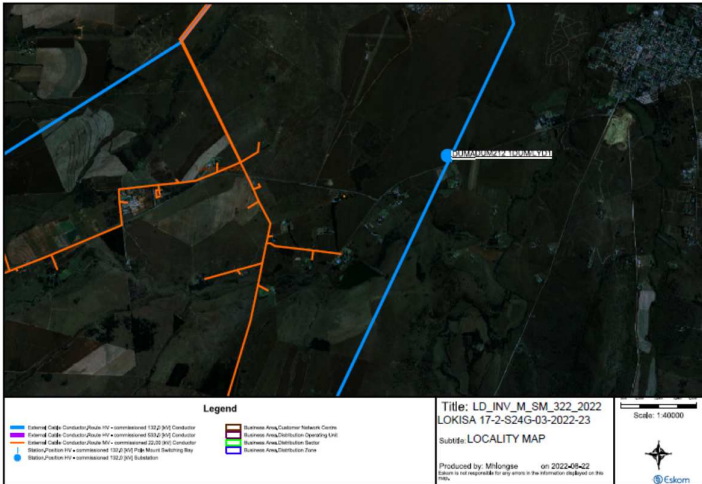
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<p>53. Afroflo specifically reserves its right to supplement this objection once an impact report has been prepared and provided.</p> <p>Comment 10: Application is an Exercise in Futility</p> <p>54. We submit that if properly investigated, one would realize that an application by the applicant for site and retail licences to the Controller of Petroleum Products in accordance with the PPA will prove unsuccessful since the applicant's property is situated respectively next to, and across from two competing sites which will share in the same traffic flow.</p> <p>55. These factors in themselves will be fatal and virtually guarantee refusal by the Controller of Petroleum Products of the applicant's site and retail licences</p> <p>Relief Sought</p> <p>56. We accordingly request the Competent Authority to suspend the applicant's request in terms of section 24G of NEMA until –</p> <p>57.1 such time as the Department Mpumalanga Agriculture, Rural Development, Land and Environmental Affairs has completed an investigation regarding the unlawful activities, and a report thereon has been included as part of the applicant's application; and</p> <p>57.2 the Department of Mineral Resources and Energy has completed its investigation regarding contravention of section 2A(1)(c) of the PPA and taken appropriate steps; and</p>			<p>53. Note is taken of the comment.</p> <p>Comment 10: Application is an Exercise in Futility</p> <p>54. The required applications for licences to the Controller of Petroleum Products in accordance with the PPA will be submitted and their comment obtained thereon.</p> <p>55. Note is taken of the comment.</p> <p>Relief Sought</p> <p>56.–</p> <p>57.1 The Section 24G Application has been submitted to MDARDLEA and the process is in progress.</p> <p>57.2 The S24G application relates to the clearance of vegetation for a Heavy Vehicle Parking Depot and no fuel is being stored on site nor has any facilities for the storage of fuel been constructed and it is what the Controller of Petroleum Products should investigate at this stage. Once the S24G process has run its course an application will be submitted to the Controller</p>

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<p>57.3 the applicant, following completion of the above requirements, has properly notified all potential I&AP's and allowed them a further 30 days to comment on the applicant's application; and</p> <p>57.4 the applicant has paid an administrative fine and the quantum thereof as well as proof of payment, has been provided to all I&AP's;</p> <p>57. Notwithstanding the above, we submit that the applicant's request must be refused in accordance with section 24G(2)(a) and the land must be rehabilitated in accordance with section 24G(3)(a) since –</p> <p>58.1 There is no need or desirability for a third filling station and truck stop respectively right next to and across from Afroflo and Beuka Ontwikkelings Trust's sites; and</p> <p>58.2 granting the applicant environmental authorisation would severely and unrepairable impact the socio-economic standing of Afroflo, Beuka Ontwikkelings Trust and its owners and staff; and</p>			<p>of Petroleum Products for the storage of 23m3 on site for refuelling of the tenant's trucks.</p> <p>57.3 Proper Public Participation was conducted in terms of Section 8 of the Regulations relating to the procedure to be followed and criteria to be considered when determining an appropriate fine in terms of Section 24G of the National Environmental Management Act, 1998 (Act No 107 of 1998). A Notice was placed in the Steelburger / Lydenburg News Of 7 April 2022. Subsequent Public Participation conducted is described in Section 4 of the EIR.</p> <p>57.4 All registered I&AP's will be informed of the Department's decision in respect of the Application including the quantum of the administrative fine.</p> <p>57. Note is taken of the comment.</p> <p>58.1 The project does not include a filling station and Heavy Vehicle Parking Depot in such close proximity to the others are in line with the requirements of a free economy in which competition ensures the best product for the consumer.</p> <p>58.2 Refer to 58.1.</p>

Issue	Commentator	Date	Response
<p>58.3 granting environmental authorisation to the applicant would be an exercise in futility since any application for site and retail licence to the Controller of Petroleum Products will be refused.</p> <p>59. All Afroflo's rights are reserved.</p>			<p>58.3 The S24G application relates to the clearance of vegetation for a Heavy Vehicle Parking Depot and no fuel is being stored on site nor has any facilities for the storage of fuel been constructed. Once the S24G process has run its course an application will be submitted to the Controller of Petroleum Products for the storage of 23m3 on site for refuelling of the tenant's trucks.</p> <p>59. Note is taken of the comment.</p>
Comments on Draft EIAR			
<p>1. Your wayleave application dated 04 August 2022 has reference. Transnet Pipelines, a division of Transnet SOC Limited, is not affected by the proposal.</p> <p>Your awareness of the existence of Transnet's pipeline servitudes and concern for their integrity is highly appreciated.</p> <p>This authorisation shall be valid for 48 months from the date - 04 August 2022.</p>	<p>Mr MT (Thami) Hadebe Tel: 031 – 361 1454</p>	<p>4/8/22</p>	<p>1.No response is required</p>
<p>1. In reply to your letter, we would like to advise that we have no objection against the above-mentioned application as Sasol Satellite Operations will NOT BE AFFECTED.</p> <p>This wayleave is valid for 12 months.</p>	<p>Rachel Mphofu 010 345 8358 Team Lead Gas Pipeline wayleaves@sasol.com Cell: 079 505 4588</p>	<p>4/8/22</p>	<p>2.No response is required</p>
<p>3.This notice affects the existing Eskom Distribution line the LYDENBURG/BOSOORD 22kV overhead power line which traverse the proposed area.</p>	<p>Sebenzile Mhlongo Tel +27 13 693 2073</p>	<p>22/8/2022</p>	<p>3.Note is taken and the requirements will be adhered to</p>

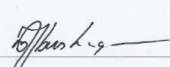
Issue	Commentator	Date	Response
<p>Eskom Distribution will raise no objection to the proposed development, provided Eskom's rights and services are acknowledged and respected at all times.</p> <p>There is 9 meters building and tree restriction on either side of the Centre lines of the 11/22 kV power line, which must be adhered to in all future development and or construction. Eskom's rights are protected by wayleave.</p> <p>Further to the above the following conditions must be adhered to and accepted in writing before any construction procedures:-</p> <ol style="list-style-type: none"> 1. Eskom Distribution shall at all times have unobstructed access to and egress from its services. 2. The applicant will adhere to all relevant environmental legislation. Any cost incurred by Eskom Distribution as a result of non-compliance will be charged to the applicant. 3. No construction or excavation work shall be executed within 11 metres from any Eskom power line structure, and/or within 11 metres from any stay wire. 4. If Eskom has to incur any expenditure in order to comply with statutory clearances or other regulations as a result of the applicant's activities or because of the presence of his equipment or installation within the servitude or wayleave area, the applicant shall pay such costs to Eskom on demand. 5. Changes in ground level may not infringe statutory ground to conductor clearances or statutory visibility clearances. After any changes in ground level, the surface shall be rehabilitated and stabilised so as to prevent erosion. The measures taken shall be to Eskom's requirements. 6. Eskom Distribution shall not be liable for the death of or injury to any person or for the loss of or damage to any property whether as a result of the encroachment or of the use of the area where Eskom Distribution has its services, by the applicant, his/her agent, contractors, employees, successors in title and assigns. 7. The applicant indemnifies Eskom against loss, claims or damages including claims pertaining to interference with Eskom Distribution services or apparatus or otherwise. The applicant's attention is drawn to section 27(3) of the Electricity Act 1987, as amended in 1994, which stipulates that the applicant can be fined and/or imprisoned as a result of damage to Eskom's apparatus. 8. No mechanical equipment, including mechanical excavators or high lifting machinery, shall be used in the vicinity of Eskom's apparatus 			

Issue	Commentator	Date	Response
<p>and/or services, without prior written permission having been granted by Eskom. If such permission is granted the applicant must give at least seven working days prior notice of the commencement of work The Eskom's authorised area representative for the Lydenburg CNC: Mr Siphon Tonga at 013 755 9315/ 078 059 8643 Email: TongaSG@eskom.co.za allows time for arrangements to be made for supervision and/or precautionary instructions to be issued.</p> <p>9. Under no circumstances shall rubble, earth or other material be dumped within the servitude or Way Leave restriction area. The applicant shall maintain the area concerned to Eskom's satisfaction. The applicant shall be liable to Eskom for the cost of any remedial action which has to be carried out by Eskom.</p> <p>10. The clearances between Eskom's live electrical equipment and the proposed construction work shall be observed as stipulated by Regulation 15 of the Electrical Machinery Regulations of the Occupational Health and Safety Act, 1993 (Act 85 of 1993).</p> <p>11. Eskom may stipulate any additional requirements to illuminate any possible exposure to Customers or Public to coming into contact or be exposed to any dangers of Eskom plant.</p> <p>12. Costs incurred by Eskom to comply with statutory requirements in terms of an applicant's (or his contractors) works, equipment or plant in the servitude area, shall be paid to Eskom on demand.</p> <p>13. If for any reason the structure is required to be moved or dismantled the applicant will be responsible for the removal and/or possible re-location of the attachment.</p> <p>14. No work may commence unless Eskom has received the applicant's written acceptance of the conditions specified in the letter of consent and/or permit and the approval is valid for a period of 60 days from date of letter.</p> <p>15. The applicant or his / her contractor on site must always be in possession of the letter of consent. Should the site agent or contractor on site not be able to produce the required approval on inspection, all site activities will be stopped.</p> <p>16. Eskom's rights and duties in the servitude shall be accepted as always having prior right and shall not be obstructed or interfered with. NOTE: Where and electrical outage is required, at least fourteen work days is required to arrange same.</p> <p>17. Eskom Standard gates must be installed in the road reserve fence to ensure access to Eskom's services.</p>			

Issue	Commentator	Date	Response
<p>18. Statutory clearances as specified by the Occupational Health and Safety Act, 1993 (Act 85 of 1993), Regulation 15 of the Electrical Machinery Regulations, shall be complied with.</p> <p>Should the applicant or his contractor damage any of Eskom services during commencement of any work whatsoever, then Eskom's 24 hour Contact Centre Tel: 08600 37566 must be dialled immediately to report the incident.</p> <p>Any relocation of Eskom's services, due to this construction, will be for the account of the Applicant.</p> <p>The Applicant will also be responsible for granting Eskom an alternative route for the power line.</p> <p>The Eskom Customer Contact Centre at 08600 37566 must be contacted in connection with any line deviation and costs.</p> <p>Attached Annexes D (Letter of consent) and E (Indemnity Form) must be completed and returned to this office before commencement of any operations, maps indicating positions of Eskom Distribution services and Clearance standards.</p> <p>We thank you and hope you will find the above in order. Should you have technical queries on the Eskom standards and specifications please feel free to phone our Asset Creation, Manager Design Engineering Marumo at Tel: +27 13 693 3735 or email: MarumoS@eskom.co.za</p> 			

Issue	Commentator	Date	Response
<p>1. We refer to your e-mail dated 04 August 2022 regarding the application for consequences of unlawful commencement / continuation of listed activities in accordance with section 24G read with 24F of the National Environmental Management Act 107 of 1998.</p> <p>2. The matter relates <i>inter alia</i> to the unlawful removal of indigenous vegetation on the property known as Portion 42 of the Farm Rooidraai 34 JT, and the proposed development of a heavy vehicle parking depot with ancillary facilities.</p> <p>3. We once more confirm that we act for and on behalf of Afroflo (Pty) Ltd, a registered interested & affected party in this matter.</p> <p>4. We have perused the draft Environmental Impact Report (“EIR”) and attachments thereto and accordingly wish to raise the following comments in addition to those submitted previously.</p> <p>Comment 1: Change in substance of application</p> <p>5. It was noted that following submission of our initial comments the application at hand has seemingly changed from one of a truck stop with ancillary facilities, into an application for a heavy vehicle parking depot with ancillary facilities. It is generally understood that a truck stop is a refuelling facility for large vehicles which cannot refuel at typical filling stations. The applicant is now attempting to change the substance of the application so that it is seemingly for the parking of heavy vehicles and storage of fuel. We are of the view that this is a material change in the ethos of the application which requires that the application be retracted and relodged anew. To allow the metamorphosis of an application in this way, is considered procedurally unfair, unreasonable, and a ground for appeal.</p> <p>Comment 2: False claims of existing depot</p> <p>6. On page 19 of the EIR which deals with the aspect of need and desirability, read with page 21 which relates to the components of the activity, you <i>inter alia</i> stated that as a result of a municipally imposed</p>	<p>Jaco Steyn</p>	<p>30/8/2022</p>	<p>1. Note is taken of the comment.</p> <p>2. Note is taken of the comment.</p> <p>3. Note is taken of the comment.</p> <p>4. Note is taken of the comment.</p> <p>Comment 1: Change in substance of application</p> <p>5. Yes the application is for the parking of heavy vehicles and storage of fuel however what has to be kept in mind is that the activity that was undertaken (and that is applied for) is for the clearance of vegetation so therefore the application will stand as it is. There is only a change in the end use description and no material change in the ethos of the application has taken place.</p> <p>Comment 2: False claims of existing depot</p> <p>6. Note is taken of the contents of the comment and no response is provided:</p>

Issue	Commentator	Date	Response
<p>restriction on the travel of heavy vehicles through the town of Lydenburg the Applicant's clients are unable to access and utilise an existing facility owned by the Applicant. Need and desirability for the new depot is thus ostensibly justified since drivers cannot access these facilities and don't have safe alternatives. We quote the following from page 19 of the EIR:</p> <p><i>"This has directly affected the Applicant who owns and operates a Fuel Depot and truck stop from erven 5155 and 5156 Lydenburg Ext 56 and who can no longer provide the service from the existing facility.</i></p> <p><i>This has furthermore left the truck drivers without the possibility and opportunity to take a break and rest in a secure environment – there have been reports of muggings and attacks on truck drivers as they rest on the Provincial roads. Additionally, they have been forced to make use of adjacent road areas for comfort breaks. The Applicant acquired the proposed project site as an alternative location to establish the Heavy Vehicle Parking Depot in order to continue to provide a much-needed service to its existing clients."</i> (Our own underlining for emphasis).</p> <p>We also quote the following from page 21 of the EIR: <i>"As a result of the Thaba Chweu By-laws relating to Traffic and Crime Prevention, which restricts heavy vehicle access to Mashishing, the Applicant acquired the proposed project site as an alternative location to establish the Heavy Vehicle Parking Depot in order to continue to provide a much needed service to its existing clients."</i> (Our own underlining for emphasis).</p> <p>We have conducted property and company searches and found that:</p> <p>6.1 Erf 5155 is jointly owned by Mr. Emanuel Jabulane Maseko and Ms. Sophia Thembi Maseko. Any claim that this property is owned by the Applicant is therefore false.</p> <p>6.2 Erf 5155 is only 789 square metres in extent, undeveloped, and clearly meant for residential use.</p>			<p>6.1 Note is taken of the information</p> <p>6.2 – 6.5 We concur that the following information is incorrect being:</p> <p><i>"This has directly affected the Applicant who owns and operates a Fuel Depot and truck stop from erven 5155 and 5156 Lydenburg Ext 56"</i> and the Final EIAR will be amended accordingly. The applicant owns and operates PPS Lydenburg</p>

Issue	Commentator	Date	Response			
<p>6.3 Erf 5156 is owned by Lion Valley Fuel Depot CC which appears to be a legal entity distinct from Lion Valley Pty Ltd.</p> <p>6.4 The last-mentioned property is 752 square metres in extent, undeveloped, and likewise meant for residential use.</p> <p>6.5 The above findings make it clear that there is no depot on erven 5155 and/or 5156 as claimed by the Applicant.</p> <p>6.6 Portion 42 of the Farm Rooidraai 34 JT (“the property”) is owned by Mr. Barend Petrus Ehlers. The Applicant’s statement that it has acquired this property as an alternative to the use of its existing depot is thus false since there is no such existing depot and the property for which application is made is clearly owned by another person.</p> <p>7. We attach herewith WinDeed reports and arial maps which proof that the by the Applicant’s claims in attempting to justify need and desirability, are false.</p> <p>Comment 3: Use of the property</p> <p>8. The Applicant stated on several occasions that the property will not be used as a filling station but only for heavy vehicle parking and fuel storage for its existing customers, which includes TFN. TFN (“Truck Fuel Net”) is a controversial on-road refuelling company which distributes fuel to its clients through a network of participating depots. We herewith provide a link to TFN’s website for the readers information. TFN - About Us - TruckFuelNet</p> <p>9. Any claims by the Applicant that fuel will not be sold either through retailing or wholesaling activities on the property must thus unfortunately be rejected.</p> <p>10. It should also be mentioned that TFN is not a licensed wholesaler as is legally required by the Petroleum Products Act. If the competent</p>			<p>from 11 De Clerq Street, Lydenburg. The Motivation for the current application is provided below.</p> <div data-bbox="1157 391 1940 1243" style="border: 1px solid black; padding: 10px;"> <p style="text-align: center;">LION VALLEY FUEL DEPOT (PTY) LTD</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; vertical-align: top;"> <p>P.O. Box 2694 BURGERSFORT 1150 VAT: 4280223860</p> </td> <td style="width: 33%; vertical-align: top;"> <p>CNR OF R555 & CNR OF R37 BURGERSFORT LIMPOPO</p> </td> <td style="width: 33%; vertical-align: top;"> <p>TEL: 013 231 7861 CELL: 073 244 6866 CELL: 074 346 0808 REG: 2003/077909/23</p> </td> </tr> </table> <hr/> <p>Motivation Trucks,</p> <p>PPS Lydenburg has been in operation since 2005. We are situated at 11 De Clerq street, Lydenburg, 1120, where you enter the town from Burgersfort/Ohristad road. This is a major route for all trucks transporting goods of various nature to the harbours of Mozambique and Durban.</p> <p>Currently no side tipper trucks are allowed in town or to pass through the town. Lydenburg is a major point on route to fill diesel to the trucks, let the drivers have a shower and buy food before continuing their journey to these harbours.</p> <p>Most of these trucks are using a national fuelling system known as Truck Fuel Net (TFN). TFN is only situated in certain towns on route to these harbours. This means that these trucks have to fill diesel, shower, eat and sleep in Lydenburg while on route.</p> <p>Currently some trucks are allowed to still fill diesel at PPS Lydenburg. They have to enter the town, turn around and must leave the town the same way. This means an additional 65km’s each truck must drive. This however does not resolve the problem of parking, sleeping, toilet facilities and food to the trucks and their drivers.</p> <p>Without a proper parking facility for many trucks, this causes the truckdrivers to stop outside the town, where there are no ablution facilities, no security and no convenience store or food stalls. Drivers have to take that risk to continue driving when they are already over tired.</p> <p>During the last year it happened on many occasions that the drivers and their trucks have been hijacked outside town. These trucks then get driven to a remote area where the trucks get striped of their wheels, fuel and the drivers get robbed of their belongings such as cell phones, money, passports etc.</p> <p>By the granting of permission to set up a proper parking facility, all these issues will be resolved and Lydenburg will be made a safe place for truckers in South Africa.</p> <div style="text-align: center; margin-top: 20px;">  _____ Frans Labuschagne </div> </div> <p>6.6 Portion 42 of the Farm Rooidraai 34 JT (“the property”) is owned by Mr. Barend Petrus Ehlers who has entered into a Sale Agreement with the applicant.</p>	<p>P.O. Box 2694 BURGERSFORT 1150 VAT: 4280223860</p>	<p>CNR OF R555 & CNR OF R37 BURGERSFORT LIMPOPO</p>	<p>TEL: 013 231 7861 CELL: 073 244 6866 CELL: 074 346 0808 REG: 2003/077909/23</p>
<p>P.O. Box 2694 BURGERSFORT 1150 VAT: 4280223860</p>	<p>CNR OF R555 & CNR OF R37 BURGERSFORT LIMPOPO</p>	<p>TEL: 013 231 7861 CELL: 073 244 6866 CELL: 074 346 0808 REG: 2003/077909/23</p>				

Issue	Commentator	Date	Response
<p>authority therefore considers granting this application, it must first liaise with the Controller of Petroleum Products in this regard.</p> <p>Comment 4: Requirement of site licence</p> <p>11. It is respectfully submitted that the Applicant's claim that the property does not require licences in accordance with the Petroleum Products Act, whether the property will be used as a filling station or not, is fatally flawed.</p> <p>12. This is not merely our opinion, but a legal fact. Section 2A(1)(c) of the Petroleum Products Act, 1977 (Act No 120 of 1977) ("PPA") states:</p> <p><i>"a person may not hold or develop a site without there being a site licence for that site issued by the Controller of Petroleum Products."</i></p> <p>13. The term "site" is defined in the PPA as:</p> <p><i>"premises on land zoned and approved by a competent authority for the retailing of prescribed petroleum products."</i></p> <p>14. Therefore, if the property in question is zoned for filling station use, it is a site as defined by the PPA and any development thereof is prohibited unless the Applicant has been issued with a site licence by the Controller of Petroleum Products.</p> <p>Comment 5: Contradictions by Applicant</p> <p>15. We have noted contradictions in some of the statements made by the Applicant regarding the planned use of the property. As an example, in response 50 in the EIR the Applicant states that there are no plans to use the property as a filling station. Then, in response 54 of the EIR the Applicant states that it will apply for licences in accordance with the requirements of the Petroleum Products Act.</p>			<p>7. We take note of the comment but not agree with the statement that the Applicant's claims are false since the trucks that are allowed to fill diesel at PPS Lydenburg have to leave town via the same route they entered and this is an additional 65km drive. There is sufficient motivation for the proposal which is clearly why the proposed land uses at Portions 41 and 43 were successfully approved.</p> <p>Comment 3: Use of the property</p> <p>8. The Applicant stated on several occasions that the property will not be used as a filling station but only for heavy vehicle parking and fuel storage for its existing customers who are mainly VR Cargo. Please note the correction that TFN is not a client.</p> <p>9. Fuel will be sold either through retailing or wholesaling activities on the property.</p> <p>10. Approval will be obtained from the Controller of Petroleum Products in this regard.</p> <p>Comment 4: Requirement of site licence</p> <p>11. – 14 All legal requirements will be met prior to further construction taking place and the required licences will be obtained.</p> <p>Comment 5: Contradictions by Applicant</p> <p>15.- 16 All legal requirements will be met prior to further construction taking place and the required licences will be obtained.</p> <p>Comment 6: Surrounding land use</p> <p>17. The current land uses were described. Mention was made that the adjacent property was cleared. Page 5 states the following: <i>1 Ha was cleared by the adjacent land owner in preparation for the construction of a filling station on Portion 43 of the farm Rooidraai 34 JT.</i> Also Page 17 : <i>The proposed land use is furthermore in line with similar land uses that have been approved on the</i></p>

Issue	Commentator	Date	Response
<p>16. As already mentioned, it is clear that fuel will be sold from the property either through retailing or wholesaling activities by means of the TFN system.</p> <p>Comment 6: Surrounding land use</p> <p>17. It was noted that on page 25 wherein the topic of land use was discussed the Applicant made mention of amongst others, a nature reserve and a brick manufacturing facility, however the Applicant failed to mention the land use of Beuka Ontwikkelings Trust and Afroflo. This is a critical omission since, regardless of whether or not fuel will be sold on the property, the last-mentioned entities will also provide parking and ancillary services in respect of heavy vehicles which will surely result in cumulative environmental conditions, which conditions must be carefully considered and assessed in this application.</p>			<p><i>adjacent properties also on previous agricultural zoned land and no Agricultural Impact Assessment will be undertaken.</i></p>
Comments on Final EIAR			
<p>1. We refer to your e-mail dated 13 September 2022 regarding the application for consequences of unlawful commencement / continuation of listed activities in accordance with section 24G read with 24F of the National Environmental Management Act 107 of 1998.</p> <p>2. The matter relates <i>inter alia</i> to the unlawful removal of indigenous vegetation on the property known as Portion 42 of the Farm Rooidraai 34JT, and the proposed development of a heavy vehicle parking depot with ancillary facilities.</p> <p>3. We once more confirm that we act for and on behalf of Afroflo (Pty) Ltd, a registered interested & affected party in this matter. We place on record that Portion 41 of the Farm Rooidraai 34 JT has been sold to Eastern Blue Investments 178 CC ("Eastern Blue"). This will not have any effect on Afroflo's rights as an I&AP since Afroflo will continue to occupy the said property as lessee and will operate the businesses thereon.</p>	Jaco Steyn	27/09/2022	<p>1. Noted.</p> <p>2. Noted</p> <p>3. Noted.</p> <p>4. As it takes some time for the conveyancing process to be completed Afroflo (Pty) Ltd, when they became aware of the application, should have advised Eastern Blue to register as an I&AP since this would have been the "fair and reasonable" action. However, it is only at the submission of the Final EIAR for comment that this request is made and it seems that the new owners were not made aware of the pending application.</p> <p>5. Statement and no comment required.</p> <p>Comment 1A: Change in substance of application</p> <p>6. According to Arrive Alive a Truck Stop is an eating establishment, usually located near a busy road, with a large parking area for trucks and other heavy</p>

Issue	Commentator	Date	Response
<p>4. You are also requested to register Eastern Blue as an I&AP. Since Portion 41 of the Farm Rooidraai 34 JT has always featured in this application, it is fair and reasonable to register its new owner as an I&AP in this matter.</p> <p>5. We have perused the Final Environmental Impact Report (“Final EIR”) and attachments thereto and accordingly wish to raise the following comments in addition to those submitted previously.</p> <p>Comment 1A: Change in substance of application</p> <p>6. In our previous comments dated 04 August 2022, we had noted that the application had changed from one of a truck stop with ancillary facilities, into an application for a heavy vehicle parking depot with ancillary facilities. It was made clear that this was a material change in the ethos of the application which required that the application be retracted and relodged anew.</p> <p>7. In your response, you admitted that the end-use had been altered but that the ethos of the application had not changed since it had related to the clearance of vegetation.</p> <p>8. Your statement is vehemently denied since one cannot focus on the clearance of vegetation in isolation. It is common cause that the competent authority must consider the application as a whole and that the end-use is a fundamental and inextricable part thereof.</p> <p>9. We submit that this aspect in itself has rendered the application defective and the competent authority must refuse it on this basis alone.</p> <p>10. Moreover, the Applicant’s continuation with this application as it now stands will lead to gross procedural unfairness and ignorance of the <i>Audi alteram partem</i> rule</p> <p>Comment 2A: False claims of existing depot</p>			<p>vehicles. The stop usually offers a range of services for professional truck drivers to rest and refresh themselves, often with accommodation and other services available. A heavy vehicle parking depot differs from a truck stop in that no accommodation is provided and the facilities are for the use of specific clients. Both the DEIAr and FEIAr is titled “Heavy Vehicle Parking Depot- Lydenburg” as per the below images:</p> <div style="text-align: center;"> <p>*****</p> <p>DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE APPLICATION FOR RECTIFICATION IN TERMS OF SECTION 24G(1) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998, AS AMENDED</p> <p>FOR</p> <div style="border: 1px solid black; background-color: #800000; color: white; padding: 5px; width: fit-content; margin: 0 auto;"> HEAVY VEHICLE PARKING DEPOT – LYDENBURG (PORTION 42 OF THE FARM ROOIDRAAI 34 JT) </div> <p>FINAL ENVIRONMENTAL IMPACT REPORT FOR THE APPLICATION FOR RECTIFICATION IN TERMS OF SECTION 24G(1) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998, AS AMENDED</p> <p>FOR</p> <div style="border: 1px solid black; background-color: #800000; color: white; padding: 5px; width: fit-content; margin: 0 auto;"> HEAVY VEHICLE PARKING DEPOT – LYDENBURG (PORTION 42 OF THE FARM ROOIDRAAI 34 JT) </div> </div> <p>7. The term “Truck Stop” was erroneously referred to in the Comments and response in four places but no reference is further made in the reports thereto. Therefore no material change in the ethos of the application has taken place.</p> <p>8. Yes, the competent authority must consider the application as a whole and the end-use is a fundamental and inextricable part thereof.</p> <p>9. The end use has always been for a Heavy Vehicle Parking facility and the erroneous inclusion of the term “truck stop” has not rendered the application defective and the competent authority has been provided with sufficient information in order to make an informed decision. The mistakenly used term “Truck stop” occurs in the Specialists Report as well as this is the term the project</p>

Issue	Commentator	Date	Response
<p>11. In our previous comments dated 04 August 2022, we had proven that the Applicant had made false claims about the existence of a parking depot.</p> <p>12. In the Draft EIR, the Applicant had attempted to prove need and desirability on the basis that it was unable to utilise its existing heavy vehicle parking depot. The Applicant pointed the finger at municipally imposed restrictions which prohibits heavy vehicles from driving through the town of Lydenburg. These restrictions, the Applicant falsely claimed, had prevented its clients from making use of the Applicant's existing parking depot.</p> <p>13. We had attached WinDeed results, proving that the properties which the Applicant had claimed to be its heavy vehicle parking depot, were in fact tiny undeveloped residential stands.</p> <p>14. When confronted with our findings, the Applicant admitted that its presented information was incorrect.</p> <p>15. We will now consider the Applicant's amendments of the Final EIR following our comments of 04 August 2022.</p> <p>16. It is noted that on page 19 and 21 of the Final EIR, the Applicant has removed all claims about owning an existing parking depot.</p> <p>17. It was anticipated that the Applicant would amend the property descriptions included in the Draft EIR to reflect the correct address of its existing parking depot.</p> <p>18. What we see however, is that all references to the parking depot purportedly owned by the Applicant had been removed. This is of major concern since it proves that the Applicant did not erroneously cite the incorrect property in referring to its existing parking depot, but it had in fact intentionally lied about the existence of such facilities.</p>			<p>team is most familiar with although the information received from the applicant is that the application is for a Heavy Vehicle Parking Depot.</p> <p>10. According to Sewell and Kettle this principle forms the basis of the two requirements of natural justice (procedural fairness), the other being the rule against being heard before an independent and "uninterested" adjudicator. In administrative law the 'hearing rule' is fundamentally based on the maxim of audi alteram partem. A failure to inform a person of a case being made against them and an opportunity to be heard may result in the matter being dismissed or decision of a government body rendered void.</p> <p>In the context of commercial law this legal maxim is evident in, for example, the requirement for an originating process to be served on a defendant/respondent. A claim must be brought to their attention to give them the opportunity to respond. The failure to serve an originating process (in accordance with the Rules of the particular jurisdiction) will not give a claimant any right to file, for example, default judgment due to the requirement of an affidavit of service.</p> <p>The public participation process has ensured that all registered I&AP's were provided with the opportunity to be heard and therefore the principle of "Listen to the other side" or "let the other side be heard as well" have been complied with.</p> <p>Comment 2A: False claims of existing depot</p> <p>11. The applicant owns and operates PPS Lydenburg from 11 De Clerq Street, Lydenburg.</p> <p>12. We take note of the comment but do not agree with the statement that the Applicant's claims are false since the trucks that are allowed to fill diesel at PPS Lydenburg have to leave town via the same route they entered and this is an additional 65km drive. There is sufficient motivation for the proposal which is clearly why the proposed land uses at Portions 41 and 43 were successfully approved.</p> <p>13 -14 We concur that the erven mentioned in the DEAIr was erroneous.</p>

Issue	Commentator	Date	Response
<p>19. It must be remembered that the entire basis upon which the Applicant built its case for need and desirability, was that it needed an alternative parking depot since its clients could not use the existing parking depot due to municipally imposed travel restriction through Lydenburg.</p> <p>20. In an attempt to get around the obvious predicament that the Applicant now finds itself in, it included a letter signed by Mr Frans Labuschagne in the Final EIR. In his letter, Mr Labuschagne cites the inability of side tipper trucks to refuel at PPS Lydenburg filling station as motivation for the Applicant's application.</p> <p>21. The Applicant has also amended the Final EIR to now refer to PPS Lydenburg. We quote the amended section on page 19 which now reads:</p> <p><i>"This has directly affected the Applicant who owns and operates PPS Lydenburg which has been in operation since 2006 and that is situated in 11 De Clercq Street, Lydenburg."</i> (Our underlining for emphasis)</p> <p>22. We have conducted company, property and licence searches and found that –</p> <p>21.1 The Applicant doesn't own Platinum Petroleum Supplies (Pty) Ltd trading as PPS Lydenburg (hereinafter "PPS Lydenburg"), as claimed by the Applicant.</p> <p>21.2 The Applicant doesn't own the property from which PPS Lydenburg is operated, as claimed by the Applicant.</p> <p>21.3 Mr Labuschagne is not an active director in PPS Lydenburg.</p> <p>21.4 The property from which PPS Lydenburg is operated is only 1687 square metres in extent. It is lucid that this property is not a parking depot for heavy vehicles and could never be used as such due <i>inter alia</i> to its small size.</p>			<p>15. No comment on the statement.</p> <p>16.- 18 The EAP used the information from the Draft Motivating Memorandum for the Town Planning application which was incorrect and made subsequent amendments to the FEIAr.</p> <p>19. -20 Please refer to par 6.2.-6.5 (p25) of the above in which the applicant describes that no side tripper trucks are allowed to pass through town nor is there a proper parking facility for the drivers to rest.</p> <p>21- 22 The difference between a director and shareholder are that directors manage the day to day operations of a company and a shareholder owns the company by the shares that the shareholder has.</p> <p>21.1 The Applicant is a shareholder of Platinum Petroleum Supplies (Pty) Ltd trading as PPS Lydenburg.</p> <p>21.2 The windeed search provided was for 9 De Clerc Street and not 11 de Clerc Street.</p> <p>21.3 Refer to 21-22 above.</p> <p>21.4 The property from which PPS Lydenburg is operated is not a parking depot for heavy vehicles. The application is however to address the need for a heavy vehicle parking facility outside of the town.</p> <p>21.5 This is correct.</p> <p>21.6 This is correct.</p> <p>23. Note is taken of the searches provided.</p> <p>24. Statement is noted</p> <p>25. All required permits/authorisations will be obtained.</p> <p>26 – 28 Please refer to par 21-22 above</p>

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<p>21.5 PPS Lydenburg is a licensed retailer in accordance with the Petroleum Products Act, 1977 (Act No. 120 of 1977) (“the PPA”).</p> <p>21.6 The Applicant is a licensed wholesaler in accordance with the PPA.</p> <p>23. We attached the results of our searches to this document for your consideration and response.</p> <p>24. Section 2A(5)(a) of the PPA states: <i>“No person may make use of a business practice, method of trading, agreement, arrangement, scheme or understanding which is aimed at or would result in a licensed wholesaler holding a retail licence, except for training purposes as prescribed, but excludes wholesaling or retailing of liquified petroleum gas and paraffin.”</i> (Our underlining for emphasis).</p> <p>25. It is submitted that the above quoted statement from the Applicant in the Final EIR amounts to an admission of contravention of Section 2A(5)(a) of the PPA by the Applicant.</p> <p>26. As far as Mr Labuschagne’s letter is concerned, it must be rejected by the competent authority since neither the Applicant, or Mr Labuschagne as the director of the Applicant, has any legal standing to represent PPS Lydenburg.</p> <p>27. Perusal of Mr Labuschagne’s letter makes it clear that he is writing the letter with intimate knowledge of the operations of PPS Lydenburg and his use of the word “We” suggests that he actually operates PPS Lydenburg.</p> <p>28. We submit that Mr Labuschagne’s letter constitutes a further admission by the Applicant of its contravention of the PPA.</p> <p>29. Contravention of any provision of the PPA amounts to an offence. In this regard, section 12(1) of the PPA states:</p>			<p>29. Note is taken of the comment</p> <p>30 - 31. Lodging an application for the continuation of activities that commenced/ was undertaken unlawfully does not necessarily imply that the activity will be authorised. In terms of the NEMA, the MEC may either refuse to issue an EA, conditionally authorise the activity or direct the Applicant, to provide further information or take further steps prior to making a decision.</p> <p>32. Please refer to the need and desirability discussed in the FEIAr.</p> <p>33. We stand by the statement that the land use approval to Beuka Ontwikkelings Trust and Afroflo prove that there is need and desirability for the Applicant’s proposed activity on Portion 42.</p> <p>32.1 We concur that we have amended the FEIAr to state that the proposed activity will not compete with the activities of Beuka Ontwikkelings Trust or Afroflo respectively.</p> <p>32.2 The need and desirability was described by the applicant in his letter which spells out the moratorium on heavy vehicle access through Mashishing.</p> <p>34. We refute that there was an attempt to provide false information.</p> <p>35.-39 The applicant’s intention to develop a “heavy vehicle parking depot” was not amended however the EAP used the incorrect terms being a “Truck Stop” in the comments and response report of the DEIAr. Extract from the specialists reports that make reference to a truck stop was not amended in the FEIAr as the understanding is that the project is for a Heavy Vehicle parking Facility.</p> <p>Comment 3A: Use of the property</p> <p>40. This statement is correct and in the FEIAr involvement of TFN was corrected.</p> <p>41. VR Cargo is the client that will be serviced. .</p>

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<p><i>“Any person who contravenes a provision of this Act, shall be guilty of an offence and be liable on conviction to a fine not exceeding R 1 000 000,00, or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment...”</i></p> <p>30. The competent authority is an organ of state and a creature of statute which can only operate within its designated legal parameters. If the competent authority would thus accept or condone illegal activities as part of an application, the competent authority’s actions would be <i>ultra vires</i>.</p> <p>31. Furthermore, it is not legally permissible for the competent authority to consider the merits of any activity which is a contravention of the law, especially contraventions which constitute offences.</p> <p>32. Your response in the Final EIR to Item 7 of Comment 2 must be rejected by the competent authority. We have already proven in our comments of 04 August 2022 beyond any doubt that the premise for need and desirability upon which the Applicant’s application had been built was motivated by fraudulent claims We have now once more proven beyond any doubt that the amended claims by the Applicant are not only false and fraudulent, but amount to admission of an offence.</p> <p>33. Moreover, we are baffled by your statement that land use approval to Beuka Ontwikkelings Trust and Afroflo would prove that there is need and desirability for the Applicant’s proposed activity on Portion 42 since–</p> <p>32.1 You have specifically amended the Final EIR to pertinently state that the proposed activity will not compete with the activities of Beuka Ontwikkelings Trust or Afroflo respectively; and</p> <p>32.2 By admitting that Beuka Ontwikkelings Trust and Afroflo are competitors, you implicitly concur that need and desirability must be determined against these competitors. It is common cause that when assessing any application, the mere existence of competitors doesn’t</p>			<p>42. This statement is correct</p> <p>43. This statement is correct</p> <p>44. This statement is noted</p> <p>45 – 46 The application is not for a filling station but for a Heavy Vehicle Parking facility and ancillary uses.</p> <p>Conclusion</p> <p>47. – 48 The misuse of a term does not make an application fraudulent as the ethos thereof remains the same.</p>

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<p>prove need and desirability. In fact, it proves the exact opposite and the onus rests with an applicant</p> <p>to prove to the competent authority that there is need and desirability for the proposed activity in spite of the fact that there are existing competitors.</p> <p>34. We must pause for the moment to consider why the Applicant would go so far as to make multiple false and fraudulent claims to prove need and desirability.</p> <p>35. We are of the view that it is for the very same reason that the Applicant had changed the end-use of the application. That is to say, that the Applicant knew full-well that it would have little chance of success in its application if it kept the intended end-use as a “truck stop”. In such a case it would have to justify need and desirability with competitors which are situated right next to, and across the road respectively, from the Applicant’s property.</p> <p>36. And so, to get around this problem, the Applicant changed the end-use to “heavy vehicle parking depot” and made up the story that it already owns a heavy vehicle parking depot but that it is being prevented from utilising it by government regulations imposed upon it.</p> <p>37. As part of its fictional story, the Applicant also made a point of it to specifically state that fuel sales would not form part of the intended activity.</p> <p>38. Unfortunately for the Applicant, its representations have been proven to be false and its credibility has suffered a critical blow.</p> <p>39. The lengths that the Applicant has gone to in order to deceive the competent authority is so shocking that the competent authority must distrust each and every statement made by the Applicant unless the competent authority is satisfied that each statement has been objectively proven by the Applicant.</p>			

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<p><i>Comment 3A: Use of the property</i></p> <p>40. In the Draft EIR, the Applicant stated on several occasions that the property will not be used as a filling station but only for heavy vehicle parking and fuel storage for its existing customers, which includes TFN.</p> <p>In our comments of 04 August 2022, we had expressed our doubts since TFN's business operation stands at odds with what the Applicant had claimed.</p> <p>41. In response to our above comments, the Applicant, in blatant contradiction of its own statements, now denies that TFN is its client. It has also removed all references to TFN in its Final EIR and instead opted to cite VR Cargo as its client. This was obviously done in an attempt to remove any thoughts from the competent authority that fuel sales will take place at the property.</p> <p>42. The Applicant claims in some parts of the Final EIR and responses that fuel sales is not part of the intended end-use, alternatively, not "initially", and in other places, that fuel sales will take place either through wholesaling or retailing (Item 9 Comment 3) and that approval will be obtained from the Controller of Petroleum Products (Item 10 Comment 3)</p> <p>43. The same issues are taken with the Applicant's response to Items 11 to 14 under Comment 4 and Items 15 to 16 under Comment 5.</p> <p>44. It is respectfully stated that there are so many contradictions in the Applicant's statements, that one cannot place any modicum of trust therein.</p> <p>45. As an example, after being caught in the lie that the Applicant doesn't have an existing parking depot, the Applicant instead opted to rely on the letter from Mr Labuschagne. His letter however clearly shows that the Applicant and PPS Lydenburg are in the business of selling fuel and that</p>			

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<p>some trucks are unable to refuel at the PPS Lydenburg site. Now we have to believe the Applicant, whom holds a wholesale licence and a retail licence (notwithstanding the illegality thereof), when it claims that it doesn't intend on selling fuel from the proposed site.</p> <p>46. It is obvious that the Applicant does in fact intend on selling fuel and has always intended on doing so, notwithstanding its false claims to the contrary.</p> <p>Conclusion</p> <p>47. It is submitted that the above application is defective due to -</p> <p>45.1 the unfair and unreasonable alteration of its substance after lodgement of the application; and 45.2 It being based on false and fraudulent claims; and</p> <p>45.3 It being administratively unfair.</p> <p>48. Accordingly, the competent authority must dismiss the Applicant's application.</p>			
<p>Your correspondence with ref 17/2/S24G-03/2022/23 of date 08/08/2022 has reference.</p> <p>Lion Valley Fuel Depot illegally cleared 3.5ha of indigenous vegetation as the first step in preparation of the construction of a heavy vehicle parking depot and overnight parking facility.</p> <ol style="list-style-type: none"> 1. The MTPA has no objection to the proposed development activities. The development occurred on what previously was "other natural areas" before it was cleared. 2. The applicant must effectively implement and adhere to all the conditions of the EMP and all the action plans once it is finalised. 	<p>K.Malele MPTA</p>	<p>12/10/2022</p>	<ol style="list-style-type: none"> 1. Note is taken of the comment. 2. The following conditions will form part of the recommendations of the FEIAr: 3. The applicant must effectively implement and adhere to all the conditions of the EMP and all the action plans once it is finalised. 4. All the negative environmental impacts that could arise as a result of this development must be avoided, minimised, mitigated or rehabilitated whenever possible. 5. Newly disturbed sites must be monitored after rehabilitation for invasive species on an on-going basis. If any alien invasive species are noticed, these should be eradicated using appropriate chemical/mechanical methods.

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