



REFERENCE: 16/3/3/6/7/1/B3/28/1187/22
DATE: 23/6/2022

The Board of Directors
Nexus^{AG} (Pty) LTD
PO Box 3549
PAARL
7620

Attention: Mr Jacques du Preez

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Dear Sir

COMMENT ON THE NOTICE OF INTENT ("NOI") TO SUBMIT AN APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED): THE PROPOSED EXPANSION OF A STORAGE FACILITY FOR AGRICULTURAL CHEMICALS ON ERF NO. 19134, PAARL.

1. The electronic copy of NOI and supporting documentation dated 24 May 2022, received by this Department on 25 May 2022, this department correspondence dated 6 June 2022, and the pre-application virtual meeting held on 6 June 2022, refer.
2. According to the information submitted to this Department, it is noted that the proposal entails the following:
 - 3.1 The proposed expansion of a storage facility for agricultural chemicals on Erf No. 19134, Paarl.
 - 3.2 The expansion will remain within the existing site and will result in a higher storage capacity for the storage of agricultural chemicals.
 - 3.3 The zoning is compatible with this land use, and all existing infrastructure and services will be utilized.
 - 3.4 The proposed development will have a cumulative footprint of approximately 6335.6m².
 - 3.5 The site is mapped to contain Swartland Alluvium Fynbos vegetation, which is categorised as Endangered vegetation type. However, the site has been extensively transformed into hardened or gravelled surfaces.
 - 3.6 The site is zoned Industrial Zone and is located inside the urban area of Paarl.
3. Process
 - 3.1 A Basic Assessment process must be followed in order to apply for Environmental Authorisation.
 - 3.2 You are hereby advised that only those activities applied for in terms of the EIA Regulations, 2014 (as amended) will be considered for authorisation. The onus is on the applicant to ensure that all the applicable listed activities are applied for and assessed as part of the Basic Assessment process.

3.3 Section H 2.3 of the Nol form notes that a Water Use Licence Application ("WULA") in terms of the National Water Act, 1998 (Act No. 36 of 1998) ("NWA") may be required. In terms of the Agreement for the One Environmental System (section 50A of the NEMA and sections 41(5) and 163A of the NWA) the processes for a WULA and for an EIA must be aligned and integrated with respect to the fixed and synchronised timeframes, as prescribed in the EIA Regulations, 2014, as well as the 2017 WULA Regulations.

3.4 Please ensure the Basic Assessment Report and Environmental Management Programme contain all information requirements outlined in Appendices 1 and 4 respectively of EIA Regulations, 2014 (as amended). Omission of any required information may result in the application for Environmental Authorisation being refused.

3.5 You are advised that when undertaking the Basic Assessment process, you must take into account the applicable guidelines including the guidelines developed by the Department. The Department's guidelines can be downloaded from the Department's website www.westerncape.gov.za/eadp. In particular, the guidelines that may be applicable to the proposed development include, inter alia, the following:

- Guideline for the Review of Specialist Input in the EIA process (June 2005).
- Guideline for Environmental Management Plans (June 2005).
- Guideline on Alternatives (March 2013).
- Guideline on Need and Desirability (March 2013).

4. Screening Tool and Protocols

4.1 This Directorate notes that the Screening Tool Report (dated 31 January 2022) appended to the NOI has identified a number of specialist assessments to be conducted. The "Procedures for the Assessment and Minimum Criteria for Reporting on identified Environmental Themes in terms of Sections 24(5)(a) and (h) and 44 of the National Environmental Management Act, 1998, when applying for Environmental Authorisation" ("the Protocols") were published in GN No. 320 as published in Government Gazette No. 43110 on 20 March 2020 and it is noted that some of the Protocols are applicable to your development proposal.

4.2 Confirmation of the relevant specialist studies and a motivation as to why most of the identified specialist studies will not be conducted have been included in a Site Sensitivity Verification Report ("SSVR"). This Directorate notes and acknowledges the motivations provided for the specialist studies that will and will not be conducted. The SSVR must be appended to the Basic Assessment Report that will be circulated during the public participation process.

4.3 Please note that should any authority that have jurisdiction in respect of any aspect of the proposed development request that an additional specialist study be conducted, and where the request is supported by this Directorate, this must take precedence. Where a specialist assessment is required and a specific environmental theme protocol has been prescribed, the requirement of Appendix 6 of the EIA Regulations, 2014 are replaced by the Protocols. The relevant specialist assessments must therefore comply with the requirements of the Protocols.

5. Public Participation Process ("PPP")

5.1 A public participation process ("PPP") that meets the requirements of Regulation 41 of the EIA Regulations, 2014 must be undertaken. You are advised that public participation may be undertaken prior to the submission of the application, although this is not mandatory. It is the Environmental Assessment Practitioner's discretion at what stage the requirements of Regulation 41 are met, whether during the proposed application (pre-application) process or formal application process. You are reminded that a period of at least 30 days must be provided to all potential or registered interested and affected parties to submit comment on the BAR.

- 5.2 Should a public participation process, which includes the circulation of the pre-application BAR for comment, be undertaken prior to submission of an Application Form to the Department, in terms of Regulation 40, the pre-application BAR may also be submitted to the Department for commenting purposes. Please ensure that an electronic copy of the pre-application BAR is submitted to the Department for commenting purposes.
- 5.3 In terms of Section 24O (2) and (3) of NEMA and Regulations 7(2) and 43(2) of the EIA Regulations, 2014, any State Department that administers a law relating to a matter affecting the environment relevant to the application must be requested to comment within 30 days. **Please note that the Environmental Assessment Practitioner ("EAP") is responsible for such consultation.** Therefore, it is requested that the EAP include proof of such notification to the relevant State Departments in terms of Section 24O (2) and (3) of NEMA in the BAR, where appropriate.
6. The Department awaits the submission of the Application Form and/or pre-application BAR prescribed by the EIA Regulations, 2014. Please note that an electronic copy of the Application Form must be submitted.
7. Please note that the activity may not commence prior to an Environmental Authorisation being granted by the Department. It is an offence in terms of Section 49A of the NEMA for a person to commence with a listed activity unless the Department has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F and 49A of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department for prosecution. A person convicted of an offence in terms of the above is liable to a fine not exceeding R10 000 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.
8. No information provided, views expressed and/or comments made by officials during the pre-application consultation should in any way be seen as an indication or confirmation:
- that additional information or documents will not be requested;
 - of the outcome of the application.
9. Kindly quote the abovementioned reference number in any future correspondence regarding this NOI.
10. This Department reserves the right to revise or withdraw its comments and request further information from you based on any new or revised information received.
11. Your interest in the future of the environment is greatly appreciated.

Yours faithfully

PP HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: (1) Ameesha Sanker (Sharples Environmental Services)
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