



**Western Cape  
Government**  
Environmental Affairs and  
Development Planning

**DIRECTORATE: DEVELOPMENT MANAGEMENT  
REGION 1**

**EIA REFERENCE:** 16/3/3/6/7/1/A5/88/2134/18

**ENQUIRIES:** AYESHA HAMDULAY

**DATE OF ISSUE:** 2018 -08- 2 8

The Board of Directors  
Atlas Towers (Pty) Ltd  
P O Box 44512  
**CLAREMONT**  
7735

**Attention: Mr Dirko Loots**

Tel.: (021) 552 5255

Fax: (086) 537 9187

Dear Sir

**COMMENT ON THE NOTICE OF INTENT TO SUBMIT AN APPLICATION 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 DEVELOPMENT OF AN APPROXIMATELY 25M HIGH TREE-TYPE MAST AND ASSOCIATED INFRASTRUCTURE ON ERF 73, KLIPHEUWEL**

1. The Notice of Intent Form with cover letter dated 12 July 2018, received by this Department on the same date, refers.
2. This Department notes that the development proposal entails the development of an approximately 25m high tree-type mast and associated infrastructure on Erf 73, Klipheuwel.
3. Listed Activities  
After considering the information provided in the Notice of Intent, this Department notes that the proposed development constitutes a listed activity as defined in terms of the EIA Regulations, 2014 (as amended), namely Item 3 of GN No. R.983 (as amended).

**Item 3 of GN No. R.983 (as amended):**

*"The development of masts or towers of any material or type used for telecommunication broadcasting or radio transmission purposes where the mast or tower—*

*(a) is to be placed on a site not previously used for this purpose;  
and*

*(b) will exceed 15 metres in height—*

*but excluding attachments to existing buildings and masts on rooftops.*

**i. Western Cape**

- i. All areas outside urban areas;
- ii. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose, within urban areas; or
- iii. Areas zoned for use as public open space or equivalent zoning within urban areas."

**4. Process**

A Basic Assessment Process must be followed in order to apply for Environmental Authorisation. Only those activities applied for shall 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. Failure to include any applicable listed activity may invalidate the application.

You are referred to Appendix 1 of GN No. R. 982 (as amended) for the requirements with respect to the 'Basic Assessment Process'. You are advised that when undertaking the Basic Assessment Process you must take into account this Department's Circular EADP 0028/2014 on the "One Environmental Management System" and the EIA Regulations, 2014 (as amended) as well as any other guidance provided by this Department. This Department's guidelines can be downloaded from the Department's website: [www.westerncape.gov.za/eadp](http://www.westerncape.gov.za/eadp). In particular, the guidelines that may be applicable to the proposed development include, *inter alia*, the following:

- 1.1. Guideline for Environmental Management Plans (June 2005)
- 1.2. Guideline on Exemption Applications (March 2013)
- 1.3. Guideline on Public Participation (March 2013)
- 1.4. Guideline on Alternatives (March 2013)
- 1.5. Guideline on Need and Desirability (March 2013)

**5. Request for a Specific Fee Reference**

This Department reminds you that the "Request for a specific fee reference number" form must be completed and submitted to this Department prior to submission of the formal application for the abovementioned proposed development. This Department advises that the Request for a Specific Fee Reference Number Form be submitted to this Department approximately 30 days before the intended date for the submission of the Application Form for Environmental Authorisation. Upon receipt of the specific fee reference number, the reference number must be inserted into the Application Form for Environmental Authorisation and proof of payment of the applicable fee attached when the Application Form is submitted to this Department.

**6. Exemption**

This Department notes that you do not intend to apply for Exemption in terms of the National Exemption Regulations, 2014 promulgated on 08 December 2014 from any of the requirements of the Public Participation Process as stipulated by Regulation 41 of the EIA Regulations, 2014 (as amended) any other provisions contained in the EIA Regulations, 2014 (as amended) the NEMA or any notice issued under the NEMA. Please note that should you fail to meet a requirement of the EIA Regulations, 2014 (as amended) or the NEMA and if no exemption from that provision was applied for, your application for Environmental Authorisation may be refused by this Department.

**7. Alternatives**

Be advised that in terms of the EIA Regulations, 2014 (as amended) and the NEMA, the investigation of alternatives is mandatory. All alternatives identified must therefore be investigated

to determine if they are feasible and reasonable. In this regard it must be noted that this Department may grant authorisation for an alternative as if it has been applied for or may grant authorisation in respect of all or part of the activity applied for as specified in Regulation 20 of GN No. R. 982 (as amended). Alternatives are not limited to activity alternatives, but include layout alternatives, design, activity, operational and technology alternatives. You are hereby reminded that it is mandatory to investigate and assess the option of not proceeding with the proposed activity (i.e., the "No-Go" option) in addition to other alternatives identified.

Every EIA process must therefore identify and investigate alternatives, with feasible and reasonable alternatives to be comparatively assessed. If, however, after having identified and investigated alternatives, no feasible and reasonable alternatives were found, no comparative assessment of alternatives, beyond the comparative assessment of the preferred alternative and the option of not proceeding, is required during the assessment. What would, however, be required in this instance is proof that the investigation was undertaken and motivation indicating that no reasonable or feasible alternatives other than the preferred option and the 'No-Go' option exist.

8. Public Participation Process

A public participation process ("PPP") that meets the requirements of Regulation 41 of the EIA Regulations, 2014 (as amended) 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 ("EAP") discretion whether the requirements of Regulation 41 are met, during the 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 Basic Assessment Report ("BAR") and Environmental Management Programme ("EMPr").

Should a PPP which includes the circulation of the pre-application BAR for comment be undertaken prior to submission of an Application Form for Environmental Authorisation to this Department, in terms of Regulation 40, the pre-application BAR may also be submitted to the Department for commenting purposes. Please ensure a minimum of two printed copies of the pre-application BAR is submitted to the Department for commenting purposes.

9. In terms of Section 24O (2) and (3) of NEMA and Regulations 7(2) and 43(2) of the EIA Regulations, 2014 (as amended), 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 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. It is noted that, amongst others, the following State Departments and Organs of State must be consulted during the EIA process as part of the PPP:

- 9.1. CapeNature;
- 9.2. The Ward Councillor;
- 9.3. The City of Cape Town;
- 9.4. Heritage Western Cape;
- 9.5. The Western Cape Government: Agriculture;
- 9.6. The Western Cape Government: Health; and
- 9.7. The South African Civil Aviation Authority.

In terms of good environmental practice you are encouraged to engage with State Departments and other Organs of State in the pre-application phase or early in the EIA process to solicit their inputs on any of their requirements to be addressed in the EIA process. Please note that this does

not replace the requirement of making the BAR available to State Departments as stipulated above.

The person conducting the PPP must fulfil the requirements outlined in Chapter 6 of the EIA Regulations, 2014 (as amended) and must take into account any applicable Guidelines published in terms of Section 24J of the NEMA, this Department's Circular EADP 0028/2014 on the "One Environmental Management System" and the EIA Regulations 2014 (as amended), as well as any other guidance provided by this Department. Note that the public participation requirements are applicable to all proposed site.

10. **Environmental Management Programme**  
In accordance with Section 24N of the NEMA and Regulation 19, this Department hereby requires the submission of an EMPr. The contents of such an EMPr must meet the requirements outlined in Section 24N of the NEMA (as amended) and Regulation 19 of the EIA Regulations, 2014 (as amended). The EMPr must address the potential environmental impacts of the activity throughout the project life cycle, including an assessment of the effectiveness of monitoring and management arrangements after implementation (auditing). The EMPr must be submitted together with the BAR. This Department would like to advise that in compiling the EMPr, this Department's Guideline for Environmental Management Plans (June 2005), available on this Department's website must be taken into account as well as Appendix 4 of the EIA Regulations, 2014 (as amended).
11. **Need and Desirability**  
In terms of the EIA Regulations, 2014 (as amended) when considering an application, this Department must take into account a number of specific considerations including, *inter alia*, the need for and desirability of any development proposal. As such, the need for and desirability of the development proposal must be considered and reported on in the BAR. The BAR must reflect how the strategic context of the site in relation to the broader surrounding area, has been considered in addressing need and desirability.
12. The Department awaits the submission of the Application Form and/or pre-application BAR prescribed by the EIA Regulations, 2014 (as amended). Please note that two printed copies and one electronic copy (saved on CD/DVD) of the Application Form for Environmental Authorisation and/or pre-application BAR must be submitted.
13. Please note that the pre-application consultation is an advisory process and does not pre-empt the outcome of any future application which may be submitted to the Department.
14. 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:
  - 14.1. That additional information or documents will not be requested, or
  - 14.2. Of the outcome of the application.
15. In addition to the above, you must clearly show how the proposed development complies with the principles contained in Section 2 of the NEMA and must also show how the proposed development meets the requirements of Sustainable Development.
16. It is prohibited in terms of Section 24F of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply in terms of the prohibition will result in the matter being referred to the Environmental Law Enforcement Directorate of this Department for possible prosecution. A

person convicted of an offence in terms of the above is liable for a fine not exceeding R5 000 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.

17. Kindly quote the abovementioned reference number in any future correspondence regarding this letter.
18. The Department reserves the right to revise or withdraw its comments and request further information from you based on any information received.

Yours faithfully

*J. Thejane*  
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**HEAD OF COMPONENT**

**ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Copied to:	Mr Emile Esquire	(EAP: EnviroAfrica)	Fax: (086) 512 0154
	Ms Pat Titmuss	(CoCT: Northern Administration)	Fax: (021) 444 0605
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