



**Western Cape
Government**

Environmental Affairs and
Development Planning

Directorate: Development Management (Region 1)

REFERENCE: 16/3/3/6/7/1/A3/57/2136/18

ENQUIRIES: Natasha Bieding

DATE:

2018 -08- 24

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

Attention: Dirko Loots

Tel.: (021) 552 5255

Fax: (086) 537 9187

Dear Sir

COMMENT ON THE NOTICE OF INTENT TO SUBMIT AN APPLICATION FOR BASIC ASSESSMENT FOR THE PROPOSED CONSTRUCTION OF AN APPROXIMATELY 30M HIGH CAMOUFLAGED TREE MAST AND ASSOCIATED INFRASTRUCTURE ON THE REMAINDER OF ERF 5094, BROADLANDS, STRAND

1. The 'Notice of Intent' dated 10 July 2018 and the correspondence dated 12 July 2018 from Inge Erasmus of EnviroAfrica as received by this Department on the same date, refer.
2. On 4 December 2014 the Minister of Environmental Affairs promulgated regulations in terms of Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), viz. the Environmental Impact Assessment ("EIA") Amendment Regulations, 2014 (Government Notice ("GN") No. R. 982, R. 983, R. 984 and R. 985 in Government Gazette No. 38282 of 4 December 2014). These regulations came into effect on 8 December 2014. All activities defined as listed activities in the EIA Regulations, 2014 (as amended) that had not lawfully been commenced with on 8 December 2014, must not be undertaken without an Environmental Authorisation from the competent authority.
3. You are hereby advised that only those activities applied for 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 EIA process. Failure to include any applicable listed activity may result in the refusal of your application.

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Signature

4. This Directorate notes that you do not intend to apply in terms of the National Exemption Regulations, 2014 (as amended), for exemption from any provisions contained in the NEMA and the EIA Regulations, 2014 (as amended). Please note that should you fail to meet a requirement of the Regulations or the NEMA and if no exemption from that provision was applied for, your application may be refused.
5. 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 of 4 December 2014 (as amended). Alternatives are not limited to activity alternatives, but include layout, design, activity, site, operational and technology alternatives.
6. 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.
7. In terms of good environmental practice you are encouraged to engage with State Departments and other Organs of State in the pre-application phase 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 reports available to State Departments as stipulated above. **You are hereby requested to add the City of Cape Town to your list of State Departments/Organs of State to be notified.**
8. The person conducting the Public Participation Process 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.
9. In accordance with Section 24N of the NEMA and Regulation 19, this Department hereby requires the submission of an Environmental Management Programme ("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 Basic Assessment Report. This Department would like to advise that in compiling the EMPr, this Department's Guideline for Environmental Management Plans (June 2005), available on the Department's website must be taken into account.
10. You are referred to Appendix 1 of GN No. R. 982 of 4 December 2014 (as amended), for the requirements with respect to the 'Content of basic assessment reports'.

11. Please ensure that all specialist reports (if applicable) contain all information set out in Appendix 6 of GN No. R. 982 of 4 December 2014 (as amended).

12. 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 proposed development. As such, the need for and desirability of the proposed activity must be considered and reported on in the Basic Assessment Report. The Basic Assessment Report must reflect how the strategic context of the site in relation to the broader surrounding area, has been considered in addressing need and desirability.

13. 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.

14. It is prohibited in terms of Section 24F of the NEMA for a person to commence with a listed activity unless the competent authority has granted an environmental authorisation for the undertaking of the activity. Failure to comply in terms of this prohibition will result in the matter being referred to the Environmental Law Enforcement Directorate of this Department for possible prosecution. A person convicted of an offence in terms of the above is liable for a fine not exceeding R5 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.

15. This Department reserves the right to revise initial comments and request further information based on the information received.

Yours faithfully


M. Thabane

**HEAD OF DEPARTMENT
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Copied to: (1) Inge Erasmus (EnviroAfrica)
(2) Azanne van Wyk (City of Cape Town)

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