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ENQUIRIES: Steve Kleinhans

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Dear Sir

COMMENT ON THE DRAFT BASIC ASSESSMENT REPORT FOR THE PROPOSED DEVELOPMENT OF A 25 METRE HIGH TELECOMMUNICATIONS TREE MAST ON PORTION 112 OF THE FARM HANS MOES KRAAL No. 202, GEORGE

1. The abovementioned document dated July 2019, refers.
2. The *Environmental Impact Management Services* component of this Directorate (hereinafter "this Directorate") has reviewed the information contained within the Draft Basic Assessment Report ("DBAR") and provides the following comment:

2.1. BAR Requirements

The BAR must contain all the information outlined in Appendix 1 of GN No. R. 982 of 4 December 2014 and must also include the information requested in this letter. Omission of any of the said information may result in the application for Environmental Authorisation being refused. In this regard, please note the following:

- The DBAR does not contain the originally signed declarations of the applicant and appointed specialists. The originally signed declarations must be included in the Final BAR ("FBAR").

Please note that in accordance with Regulation 19 of GN No. R. 982 of 4 December 2014, the Department hereby stipulates that the BAR must be submitted to this Department for decision within **90 days** from the date of receipt of the application by the Department. According to this Department's records the revised application was received on 25 July 2019. If however, significant changes have been made or significant new information has been added to the BAR, the applicant/EAP must notify the Department that an additional

50-days (i.e. 140 days from receipt of the application) would be required for the submission of the BAR. The additional 50 days must include a minimum 30-day commenting period to allow registered I&APs to comment on the revised report/additional information.

If the BAR is not submitted within 90 days or 140 days, where an extension is applicable, the application will lapse in terms of Regulation 45 of Government Notice Regulation No. 982 of 4 December 2014 and your file will be closed. Should you wish to pursue the application again, a new application process would have to be initiated. A new Application Form would have to be submitted and the prescribed application fee would have to be paid.

2.2. Implementation programme

Please note that, in accordance with the provisions of the Environmental Impact Assessment Regulations, 2014, a period for which the environmental authorisation is required must be provided. This period must be informed by the operational aspects and the non-operational aspects of the proposed development. As such, the date on which the activity will be concluded and the post construction monitoring requirements finalised, must be determined.

In this regard the table on page 10 of the DBAR does not indicate the period while which commencement must occur, while the table on page 86 indicates that the period within which commencement must occur is five years. This discrepancy must be corrected.

2.3. Legislative requirements

National Water Act (Act No. 36 of 1998)

It is noted that the Breede-Gouritz Catchment Management Agency ("BGCMA") indicated that the activity "will not impact on water resources / wetlands and therefore will not tender any comments". However, BGCMA further states that "should any activity impact on water resources / wetlands only then will the BGCMA render further comments".

The above comments may have been made based on the information made available to the BGCMA in the pre-application BAR which states that the "proposed site does not fall within or near any wetlands / watercourses on rivers". However, the information in the BAR (Appendix D) indicates that there is a natural wetland approximately 250 metres north of the proposed site. This wetland has been classified as an Aquatic Critical Biodiversity Area and Wetland National Freshwater Ecosystem Priority Area.

It must be noted that the regulated area of a watercourse for section 21(c) or (i) of the National Water Act, Act No. 36 of 1998 ("NWA"), includes a 500 metre radius from the delineated boundary (extent) of any wetland or pan. As such, water use authorisation in terms of section 21(c) and (i) may be required. The applicability of this must be confirmed with the BGCMA.

Please be advised of the required synchronisation between the EIA process and the Water Use License Application ("WULA") process (if the latter is required). You are reminded that if these processes are not properly aligned, the lack of synchronisation; omission of any reports/information; or delay as a result thereof, may prejudice the success of this application for environmental authorisation.

Furthermore, specialist reports submitted as part of the BAR (including those submitted for consideration and which also may form part of the WULA) must comply with the requirements of Appendix 6 of the Environmental Impact Assessment Regulations 2014.

2.4. Public Participation Process

It must be ensured that the Public Participation Process ("PPP") meets the requirements of Regulation 41 of the Environmental Impact Assessment Regulations, 2014 (as amended). In this regard it is noted that there are a number of neighbouring landowners who have not been informed of the proposal. In this regard, according to Appendix F4 of the DBAR, the owners of the following properties have not been informed of the proposal:

- Portion 114 of the Farm Hans Moes Kraal No. 202;
- Portion 120 of the Farm Hans Moes Kraal No. 202; and
- Portion 121 of the Farm Hans Moes Kraal No. 202

Furthermore, according to Appendix F4 of the DBAR hand deliveries were undertaken to the following properties:

- Portion 127 of the Farm Hans Moes Kraal No. 202;
- Portion 128 of the Farm Hans Moes Kraal No. 202; and
- Portion 129 of the Farm Hans Moes Kraal No. 202

However, apart from the list attached as Appendix F2 and photos taken of the entrances of these properties (Figures 7 and 8 of Appendix F3), no proof that landowners have indeed received the notification letters have been included.

Please note: In terms of Regulation 41(2)(b)(ii) of the Environmental Impact Assessment Regulations, 2014 (as amended) written notice must be given to owners, persons in control of, and occupiers of land adjacent to the site where the activity is or is to be undertaken and to any alternative site where the activity is to be undertaken.

The Environmental Assessment Practitioner ("EAP") must ensure that all adjacent property owners are informed of the proposal and afford them an opportunity to comment on the BAR. The EAP is advised to approach the Local Authority, the George Municipality, for assistance in this regard. The BAR must be made available for a period of at least 30 days to all potential and registered I&APs. Please note that failure to comply with Regulation 41 may prejudice the outcome of the application.

2.5. Specialist report(s)

It must be ensured that the specialist reports contain all information specified in Appendix 6 of the EIA Regulations, 2014. It is noted that a Visual Assessment was undertaken and included in the DBAR. In this regard please ensure that the specialist report contains the curriculum vitae of the appointed specialist.

It is noted that the specialist report, under Section 10: Mitigation Measures, recommends that the stand of pine trees not be removed since the design of the mast coupled with the trees provide effective screening of the mast. This recommendation by the specialist has been included in the DBAR.

The proposed camouflage and screening of the proposed mast and the practicality and legality thereof is questioned. *Pinus sp* (pine) is identified as an invasive alien specie

and listed as such in terms of the Conservation of Agricultural Resources Act, Act No. 43 of 1983, ("CARA") as well as the National Environmental Management: Biodiversity Act, Act No. 10 of 2004, (as amended). The landowner must take steps to control and eradicate listed invasive species and to prevent it from spreading. As such, the proposed mitigation measure is fatally flawed and; therefore, cannot be considered for implementation.

According to the specialist report, in the event where the trees are removed, the visual impact may increase to a moderate level; however, no assessment has been undertaken to substantiate this conclusion. An assessment of the visual impact of the telecommunication mast, where the stand of trees must therefore be included in the report and the BAR accordingly revised. The revised DBAR with the supporting documentation / information must be made available for a period of 30 days to all potential and registered I&APs.

2.6. Alternatives

It is noted that four design alternatives have been considered in the DBAR and it is assumed that all the alternatives, apart from Alternative 2: the 35 metre tree mast, is 25 metres tall.

According to Section E.1(c) (table on page 34), the preferred alternative i.e. Alternative 1: 25 metre tree mast will have the least visual impact while the Alternatives 3 and 4, will have a higher visual impact due to their proximity to surrounding and nearby residential environment. However, this has not been substantiated in the visual impact assessment.

As stated in Point 2.5 above the invasive alien trees must be removed. This will create an environment in which all four alternatives will seem out of place, regardless of the type or height of design of the telecommunications mast.

It must be noted that any of the alternatives assessed as part of the application can be authorised by this Department.

2.7. Impact Assessment

In the DBAR reference is made to a mast in "*the residential area of Klipheuwel*" (page 63) and "*within an agricultural area of Aan de Doorns, Worcester*" (page 71). As such this information in the impact assessment is incorrect and misleading since it is reasonably suspected that the assessment was copied from other reports. Your EAP is therefore advised to revise the impact assessment in the report.

Furthermore, comment on the pre-application BAR (Ref: 16/3/3/6/7/1/D2/19/0222/18), dated 25 March 2019, requested that a comparative assessment of all the reasonable and feasible alternative be included in the BAR in order to assist this Department to make an informed decision. However, no comparative assessment has been included in the DBAR. This must be addressed by the EAP.

2.8. Environmental Management Programme

The contents of the Environmental Management Programme ("EMP") must meet the requirements outlined in Section 24N (2) and (3) of the NEMA (as amended) and Appendix 4 of GN No. R. 982 of 4 December 2014. The EMP 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 EMP as included and received by this Directorate does not meet all the requirements in Appendix 4 as mentioned above. The EMP must be revised to comply with the requirements. The following aspects must also be amended and reflected in the final EMP that must be submitted to this Directorate with the FBAR.

- ❖ Experience and Expertise of the Environmental Control Officer
According to the EMP the Environmental Control Officer ("ECO") must be "an independent person with 5 or more years of environmental site management and able to ensure EMP compliance monitoring experience on construction projects. The implication of this is that independent ECO's with less than five years' experience will be excluded from consideration for appointment as the independent ECO.

In light of the above it is recommended that the EMP states that "a suitably experienced independent ECO must be appointed to ensure EMP compliance monitoring experience on construction projects".

- ❖ Reporting
It is noted that the ECO must compile reports for submission to EnviroAfrica or the applicant / holder. Please note that hard copies of ECO monitoring reports must also be submitted to the relevant authorities, which includes this Directorate.

Furthermore, the purpose of the mechanism of submission of the ECO reports to EnviroAfrica must be clarified in light of the fact that the appointment of the Environmental Assessment Practitioner ("EAP") concludes upon the issuing of the environmental authorisation should the application be successful.

- ❖ Amendments / changes to the EMP
The process with regard to amendments to the EMP must be correctly interpreted in terms of the regulations. Kindly take note of Part 3: Auditing and amendment of environmental authorisation, environmental management programme and closure plan in the EIA Regulations 2014 (GN No. R982 of 4 December 2014, as amended 7 April 2017).

- ❖ Environmental Audit Report
According to the EMP "an Environmental Audit Report by the ECO must be submitted by the Applicant to the satisfaction of the Department of Environmental Affairs and Development Planning, within six months after construction has been completed and also after the sites have been rehabilitated".

Kindly take note of the auditing requirements with regard to environmental authorisations and EMP's under Regulation 34 of the EIA Regulations, 2014 (as amended). In this regard, the EMP must be amended to ensure compliance with the requirements. The contents of the environmental audit report must comply with Appendix 7 of the EIA Regulations and it is recommended that it must be submitted within 3 months of the date of completion of the construction activities.

3. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.
4. Please be advised that a person is guilty of an offence if that person (*inter alia*) –
 - ❖ provides incorrect or misleading information in any form, including any document submitted in terms of these Regulations to a competent authority or omits information that may have an influence on the outcome of a decision of a competent authority;
 - ❖ has commenced with a listed activity without an environmental authorisation being granted by the competent authority.

Please note that the proposed activities may not commence prior to an Environmental Authorisation being granted by the Department.

5. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any information received.

Yours faithfully



HEAD OF COMPONENT
ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

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