



REFERENCE NUMBER: 16/3/3/6/7/1/A5/87/2062/21
ENQUIRIES: Ms. N. Wookey
DATE: 07 MAY 2021

The Director
CTC Operations (Pty) Ltd.
4 Pastoral Avenue
Durbanville Business Park
DURBANVILLE
7550

For Attention: Mr. L. Kruger

Tel: (021) 111 0466
Email: Lian@ctc-ops.co.za

Dear Sir

COMMENT ON THE NOTICE OF INTENT TO SUBMIT AN APPLICATION IN TERMS OF THE NEMA EIA REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED 35M HIGH TELECOMMUNICATION MAST AND ASSOCIATED INFRASTRUCTURE ON PORTION 22 OF FARM ZOUTERIVIER NO. 22, PHILADELPHIA.

1. Your Notice of Intent ("NOI") dated 30 March 2021 and received by this Department via electronic mail correspondence on 13 April 2021 and this Directorate's acknowledgement thereof dated 16 April 2021, refer.
2. This letter serves as comment on the aforementioned NOI. Comments on the NOI are therefore as follows:

2.1. Applicable listed activities

- 2.1.1. Based on the information contained in the NOI, the proposed development **will trigger** the following listed activities in terms of the NEMA EIA Regulations, 2014 (as amended), namely:

Listing Notice 3 of the NEMA EIA Regulations, 2014 (as amended)

Activity No. 3
Activity Description

*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.*

2.1.2. A Basic Assessment process must be followed in order to apply for environmental authorisation. You are hereby advised that only that activity applied for will be considered for authorisation. The onus is on the applicant to ensure that the applicable listed activity is applied for and assessed as part of the EIA process.

2.2. Screening Report, Protocols and Specialist Assessments

2.2.1. According to the Screening Report (generated by the Screening Tool developed by the National Department of Environmental Affairs and dated 16 March 2021), the proposed site is located within a medium sensitivity area from an agricultural perspective, a medium sensitivity area from an animal species perspective, a low sensitivity from an aquatic biodiversity perspective, a low sensitivity from an archaeological and cultural heritage perspective, a high sensitivity area from a civil aviation perspective, a low sensitivity area from a defence perspective, a low sensitivity area from a palaeontological perspective, a low sensitivity area from a plant species perspective and a very high sensitivity area from a terrestrial biodiversity perspective.

2.2.2. In addition, the Screening Report (dated 16 March 2021) identified the following specialist studies to be undertaken:

- 2.2.2.1. Landscape/ Visual Impact Assessment
- 2.2.2.2. Archaeological and Cultural Heritage Impact Assessment
- 2.2.2.3. Palaeontological Impact Assessment
- 2.2.2.4. Terrestrial Biodiversity Assessment
- 2.2.2.5. Aquatic Biodiversity Assessment
- 2.2.2.6. Civil Aviation Assessment
- 2.2.2.7. Defence Assessment
- 2.2.2.8. RFI Assessment
- 2.2.2.9. Geotechnical Assessment
- 2.2.2.10. Plant Species Assessment
- 2.2.2.11. Animal Species Assessment

2.2.3. Based on the information provided in the undated site sensitivity verification report, please note the following:

2.2.3.1. The medium sensitivity rating for the agricultural theme, as identified by the Screening Report (dated 16 March 2021), has been disputed and determined to be of low sensitivity area given the unsuitable location of the proposed site for agricultural activities and the overhead powerlines. According to the Protocols, where the agricultural sensitivity rating is deemed as low, an Agricultural Compliance Statement is required. An Agricultural Compliance Statement should therefore be submitted as part of the Basic Assessment Report ("BAR").

2.2.3.2. The medium sensitivity rating for the animal species theme, as identified by the Screening Report (dated 16 March 2021), has been disputed and determined to be of a low sensitivity area given the transformed nature of the proposed site and anthropogenic activities as a disturbance factor. According to the Protocols, where the terrestrial animal species rating is deemed as low, a Terrestrial Animal Species Compliance Statement is required. A Terrestrial Animal Species Compliance Statement should therefore be submitted as part of the BAR.

2.2.3.3. The high sensitivity rating for the civil aviation theme, as identified by the Screening Report (dated 16 March 2021), has been confirmed. A Civil Aviation Compliance Statement must therefore be provided as part of the BAR.

2.2.3.4. The very high sensitivity rating for the terrestrial biodiversity theme, as identified in the Screening Report (dated 16 March 2021), has been disputed and determined to be of a low sensitivity. The determination is based on the transformed nature of the proposed site and anthropogenic activities as a disturbance factor. According to the Protocols, where the terrestrial animal species rating is deemed as low, a Terrestrial Biodiversity Compliance Statement is required. A Terrestrial Biodiversity Compliance Statement should therefore be submitted as part of the BAR.

2.2.3.5. The low sensitivity ratings for the aquatic biodiversity species theme, the archaeological and cultural heritage theme, the defence theme, the palaeontological theme and the plant species theme, as identified in the Screening Report (dated 16 March 2021), has been confirmed to be of a low sensitivity. The applicable compliance statements for each environmental theme must be provided as part of the BAR.

2.2.4. Please note that the site sensitivity verification report does not provide motivation as to whether a Geotechnical Assessment and/or RFI Assessment will be undertaken. You are reminded that it is the Environmental Assessment Practitioner's responsibility to motivate whether the aforementioned studies will be undertaken as part of the Basic Assessment process.

2.2.5. In addition, please note that where a specialist assessment is required, but no specific environmental theme protocol has been prescribed, the level of assessment must be based on the findings of the site sensitivity verification and must comply with Appendix 6 of the NEMA EIA Regulations, 2014 (as amended).

2.3. Content of a Basic Assessment Report ("BAR")

2.3.1. You are referred to Appendix 1 of the NEMA EIA Regulations, 2014 (as amended) for the requirements with respect to the 'Content of basic assessment reports'.

2.4. You are advised that when undertaking the Basic Assessment process/ Scoping/EIR process, you must take into account all applicable guidelines, including the guidelines developed by the Department. These can be downloaded from the Department's website. In particular, the guidelines that may be applicable to the proposed development include, inter alia, the following:

- Circular EADP 0028/2014: One Environmental Management System.
- 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).
- Other (as applicable).

2.5. Exemptions

2.5.1. The Directorate notes that you do not intend to apply for exemption from any provisions contained in the NEMA EIA Regulations, 2014 (as amended) or the NEMA. Please note that should exemption from any provisions contained in the NEMA EIA Regulations, 2014 (as amended) or the NEMA be required, an exemption application must be submitted and the exemption process must be finalised before submitting an application for Environmental Authorisation to the competent authority.

2.6. Alternatives

2.6.1. Be advised that in terms of the NEMA 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 the 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 the NEMA EIA Regulations, 2014 (as amended). Alternatives are not limited to activity alternatives, but include layout alternatives, design, activity, operational and technology alternatives. 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 “no-go” alternative, is required during the assessment. What would, however, be required in this instance is that proof of the investigation undertaken and motivation indicating that no reasonable or feasible alternatives other than the preferred and the “no-go” alternatives exist.

2.7. Public Participation

2.7.1. In light of this Department's circular issued on 30 September 2020 (Circular No. 0024/2020), a Public Participation Plan must be submitted and agreed to by this Directorate prior to the commencement of any public participation process in order to ensure that reasonable notice is given to potential and registered interested and affected parties (“I&APs”) and must contain, all the public participation steps including additional measures proposed.

2.7.2. Please be reminded that 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 National Environmental Management Act, 1998 (Act No. 107 of 1998), 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.

2.7.3. You are advised that the list of interested and affected parties or the list of State departments/ organs of State to be consulted must include the South African Defence Force and the Civil Aviation Authority.

2.8. Environmental Management Programme (“EMPr”)

2.8.1. In accordance with Section 24N of the NEMA and Regulation 19 of the NEMA EIA Regulations, 2014 (as amended), the Department hereby requires the submission of an EMPr. The contents of such an EMPr must meet the requirements outlined in Section 24N (2) & (3) of the NEMA (as amended) and Appendix 4 of the NEMA EIA Regulations, 2014 (as amended). The EMPr must address the potential environmental impacts of the activity throughout the project life cycle including an auditing protocol for the assessment of the effectiveness of monitoring and management arrangements after implementation. The EMPr must be submitted together with the BAR.

2.9. Need and Desirability

2.9.1. In terms of the NEMA EIA Regulations, 2014 (as amended), when considering an application, this Directorate 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 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.

3. General

- 3.1. In addition to the above requirements, 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.
- 3.2. You are hereby advised that the BAR must contain all the information outlined in Appendix 1 of the NEMA EIA Regulations, 2014 (as amended), and must also include the information requested in this letter. Omission of any of the said information may result in the refusal of Environmental Authorisation.
4. 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. 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; or
 - of the outcome of the application.
5. Please note that the activity may not commence prior to obtaining an environmental authorisation from the competent authority. 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 of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department. A person convicted of an offence in terms of the above is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.
6. Kindly quote the above-mentioned reference number in any future correspondence in respect of the pre-application.

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

Yours faithfully

P.P. _____
HEAD OF DEPARTMENT

Copies to: (1) Ms. P. Titmuss / Mr. M. Theron (City of Cape Town: ERM)

(2) Mr. A. Mader (EnviroAfrica CC)

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