



forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

Private Bag X 447· PRETORIA 0001· Environment House 473 Steve Biko Road, Arcadia· PRETORIA

DFFE Reference: 14/12/16/3/3/2/1854/AM2

Enquiries: Ms Constance Musemburi

Telephone: (012) 399 9416 **E-mail:** CMusemburi@dfffe.gov.za

Mr Cornelius Weyers Janse van Rensburg
Roma Energy Vanrhynsdorp (Pty) Ltd
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Welgenvonden
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Cellphone Number: (082) 631 7496
Email Address: weyers@kerenenergy.com

PER EMAIL / MAIL

Dear Mr Janse van Rensburg

AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ENVIRONMENTAL AUTHORISATION ISSUED ON 08 MAY 2018 FOR THE VANRHYNSDORP SOLAR PHOTOVOLTAIC (PV) FACILITY ON THE REMAINDER OF THE FARM DE DUINEN NO.258, NEAR VANRHYNSDORP WITHIN MATZIKAMA LOCAL MUNICIPALITY IN THE WESTERN CAPE PROVINCE.

The Environmental Authorisation (EA) issued for the abovementioned application by this Department on 08 May 2018, the amendment to the EA dated 19 October 2022 and your application for amendment of the EA received by the Department on 21 April 2023, refer.

Based on a review of the reason for requesting an amendment to the above EA, this Department, in terms of Chapter 5 of the Environmental Impact Assessment Regulations, 2014 as amended, has decided to amend the EA dated 08 May 2018, as follows:

- Amendment 1: Change of Project Description of Listed Activity GN R.983 Activity 1:**
The applicant requested amendment of project description of Listed Activities GN R.983 Activity 1 on page 3 of the EA typed as:

From:

"A solar photovoltaic array with an electricity output of less than 10MW and a footprint greater than 1ha but not exceeding 20ha will be developed. The development will supply 5MW of electricity to the national grid (actual grid electricity capacity) but has nameplate capacity of 5.75MW".

To

"A solar photovoltaic array with an electricity output of less than 10MW and a footprint greater than 1ha but not exceeding 20ha will be developed. The development will supply 10MW of electricity to the hydrogen plant and hydrogen plant and/or other possible clients, bidders, municipalities and the national grid".

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2. **Amendment 2: Change of the Project Description**

The applicant requested change of project description on Page 4 of the EA typed as:

From

"The project entails the establishment of an array of crystalline solar photovoltaic (PV) modules, together with associated infrastructure for the generation of 5MW of electricity. The total development footprint including other infrastructure will occupy more than 10ha, but less than 20ha. The proposed development will comprise of 18540 array of poly-crystalline solar PV modules grouped into tables or panels of 20 modules each. The PV tables will be raised approximately 500mm above ground level and will have single axis tracking systems allowing the generation of approximately 5MW which will be evacuation to the national electricity grid'.

To:

The project entails the establishment of an array of crystalline solar photovoltaic (PV) modules, together with associated infrastructure for the generation of 10MW of electricity. The total development footprint including other infrastructure will occupy more than 10ha, but less than 20ha. The proposed development will comprise of adequate amount of polycrystalline solar PV modules grouped into various tables or panels, that cover an area less than 20ha, that can generate a maximum of 10MW electricity. The PV tables will be raised approximately 500mm above ground level and will have single axis tracking systems allowing the generation of approximately 10MW which will be evacuated to the hydrogen plant and/or other possible clients, bidders, municipalities and the national grid.

3. **Amendment 3 Change of the Project Components:**

The applicant requested change of project components on Page 4 of the EA typed as:

From

- Solar arrays which would generate approximately 5MW and cover an area of 10ha (within the total 20ha site),
- 20ha demarcated footprint, surrounded by a perimeter fire access road and fence,
- Fenced construction staging area (within the 20ha total site area),
- A 3m X 6m maintenance shed (within the 20ha total site area),
- Three inverter-transformer stations on concrete pads (which form part of the 10ha footprint of the actual solar array),
- A switch panel for connection to the power grid; and
- An office with septic tank ablutions (footprint of approximate 450m²).

To:

- Solar arrays which would generate approximately 10MW and cover an area of less than 20ha (within the total 20ha site),
- 20ha demarcated footprint, surrounded by a perimeter fire access road and fence,
- Fenced construction staging area (within the 20ha total site area),
- A 3m X 6m maintenance shed (within the 20ha total site area),
- Six inverter-transformer stations on concrete pads (which form part of the less than 20ha footprint of the actual solar array),
- A switch panel for connection for the hydrogen plant and/or other possible clients, bidders, municipalities and the national grid as required.
- An office with septic tank ablutions (footprint of approximate 450m²)
- A reservoir with a storage capacity of less 250 m³: and

- An electrolysis hydrogen plant.

Reasons for amendments

The applicant intends to establish a hydrogen plant that is powered by the PV Solar panels as an alternative to generate revenue and to enable utilisation of the current EA. In light of this, the applicant requested to increase the generation capacity from 5MW to 10MW. Generating a greater amount of electricity will reduce the overall production cost thereof and enable the solar plant facility to provide power for the hydrogen plant that requires a minimum 5MW to remain operational. The greater generation capacity (10MW) will enable the hydrogen plant to remain functional in unfavourable solar conditions. The surplus energy can then also be supplied to other possible clients, bidders, municipalities and the national grid to alleviate the energy crisis. To generate 10MW electricity more PV panels will be required which will cover a larger portion of land. To handle the greater generation capacity, additional inverter-transformer stations will be required. The switch panel will have to be able to transfer the power as required by the hydrogen plant or other potential sources. The applicant intends to utilise part of the electricity generated to power various facilities on the PV solar plant premises, including a hydrogen plant. This will reduce Roma energy holdings electricity demand from Eskom. By generating and utilising its own electricity, the plant will not be dependent on Eskom. The applicant indicated that they frequently attempted since the initial environmental authorisation dated 2012, to obtain permission from the relevant authority to supply electricity to a substation (the National grid) near Vanrhynsdorp. The respective application is still pending and hence the applicant had to consider alternative options. During the period that the current EA was authorised the landowners also changed.

The applicant is advised to submit an amendment to the EMPr should additional mitigation measures be required for the implementation of the amendments herewith approved.

This proposed amendment letter must be read in conjunction with the EA dated 08 May 2018, as amended.

In terms of the Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000), you are entitled to the right to fair, lawful and reasonable administrative action; and to written reasons for administrative action that affects you negatively. Further your attention is drawn to the provisions of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013) which stipulates that the Department should conduct itself in a responsible manner when collecting, processing, storing and sharing an individual or another entity's personal information by holding the Department accountable should the Department abuses or compromises your personal information in any way.

In terms of Regulation 4(2) of the Environmental Impact Assessment Regulations, 2014, as amended (the EIA Regulations), you are instructed to notify all registered interested and affected parties, in writing and within 14 (fourteen) days of the date of the EA, of the Department's as well as the provisions regarding the submission of appeals that are contained in the Regulations.

Your attention is drawn to Chapter 2 of National Environmental Management Act, 1998 (Act No. 107 of 1998) National Appeal Regulations published under Government Notice R993 in Government Gazette No. 38303 dated 08 December 2014 (National Appeal Regulations, 2014), which prescribe the appeal procedure to be followed. Kindly include a copy of this document (National Appeal Regulations, 2014) with the letter of notification to interested and affected parties in this matter.

Should any person wish to lodge an appeal against this decision, he/she must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party, and any organ of state with interest in the matter within 20 days from the date that the notification of the decision was sent to the registered interested and affected parties by the applicant; or the date that the notification of the decision was sent to the applicant by the Department, whichever is applicable.

Appeals must be submitted in writing in the prescribed form to:

The Director: Appeals and Legal Review of this Department at the below mentioned addresses.

By email: appeals@environment.gov.za

By hand: Environment House
473 Steve Biko Road
Arcadia
PRETORIA
0083; or

By post: Private Bag X447
PRETORIA
0001

Please note that in terms of Section 43(7) of the National Environmental Management Act, Act No. 107 of 1998, as amended, the lodging of an appeal will suspend the environmental authorisation or any provision or condition attached thereto. In the instance where an appeal is lodged, you may not commence with the activity until such time that the appeal is finalised.

To obtain the prescribed appeal form and for guidance on the submission of appeals, please visit the Department's website at https://www.dffe.gov.za/documents/forms#legal_authorisations or request a copy of the documents at appeals@dffe.gov.za.

Yours faithfully


Mr Sabelo Malaza
Chief Director: Integrated Environmental Authorisations
Department of Forestry, Fisheries & the Environment
Date: *03/11/2023*

cc	Jan-Tjaard Marx	Enviro Africa CC	E-mail: ian@enviroafrica.co.za
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Private Bag X 447· PRETORIA 0001· Environment House 473 Steve Biko Road, Arcadia· PRETORIA

DFFE Reference: 14/12/16/3/3/1/1854/AM1

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Mr Cornelius Weyers Janse van Rensburg
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7 Pin Oak
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STELLENBOSCH
7600

Cellphone Number: (082) 631 7496
Email Address: weyers@kerenenergy.com

PER EMAIL / MAIL

Dear Mr Janse van Rensburg

AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 08 MAY 2018 FOR THE VANRHYNSDORP SOLAR PHOTOVOLTAIC (PV) FACILITY ON THE REMAINDER OF THE FARM DE DUINEN NO.258, NEAR VANRHYNSDORP WITHIN MATZIKAMA LOCAL MUNICIPALITY IN THE WESTERN CAPE PROVINCE

The Environmental Authorisation (EA) issued for the abovementioned application by this Department on 08 May 2018, your application for amendment of the EA received by the Department on 14 September 2022 and the acknowledgement letter dated 21 September 2022, refer.

Based on a review of the reason for requesting an amendment to the above EA, this Department, in terms of Chapter 5 of the Environmental Impact Assessment Regulations, 2014 as amended, has decided to amend the EA dated 08 May 2018, as follows:

Amendment 1: Amendment to extend the validity of the EA:

The activity must commence within a period of five (05) years from the date of expiry of the EA issued on 08 May 2018 (i.e., the EA will lapse on 08 May 2028). If commencement of the activity does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken.

Reason for amendment:

The applicant applied to extend the validity period of the EA to allow the final applications for electricity excavation to the national Eskom grid to be concluded and that construction can commence.

This proposed amendment letter must be read in conjunction with the EA dated 08 May 2018 as amended.

In terms of the Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000), you are entitled to the right to fair, lawful and reasonable administrative action; and to written reasons for administrative action that affects you negatively. Further your attention is drawn to the provisions of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013) which stipulates that the Department should conduct itself in a responsible manner when collecting, processing, storing and sharing an individual or another entity's personal information by holding the Department accountable should the Department abuses or compromises your personal information in any way.

In terms of Regulation 4(2) of the Environmental Impact Assessment Regulations, 2014, as amended (the EIA Regulations), you are instructed to notify all registered interested and affected parties, in writing and within 14 (fourteen) days of the date of the EA, of the Department's as well as the provisions regarding the submission of appeals that are contained in the Regulations.

Your attention is drawn to Chapter 2 of National Environmental Management Act, 1998 (Act No. 107 of 1998) National Appeal Regulations published under Government Notice R993 in Government Gazette No. 38303 dated 08 December 2014 (National Appeal Regulations, 2014), which prescribe the appeal procedure to be followed. Kindly include a copy of this document (National Appeal Regulations, 2014) with the letter of notification to interested and affected parties in this matter.

Should any person wish to lodge an appeal against this decision, he/she must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party, and any organ of state with interest in the matter within 20 days from the date that the notification of the decision was sent to the registered interested and affected parties by the applicant; or the date that the notification of the decision was sent to the applicant by the Department, whichever is applicable.

Appeals must be submitted in writing in the prescribed form to:

The Director: Appeals and Legal Review of this Department at the below mentioned addresses.

By email: appeals@environment.gov.za;

By hand: Environment House
473 Steve Biko,
Arcadia,
Pretoria,
0083; or

By post: Private Bag X447,
Pretoria,
0001;

Please note that in terms of Section 43(7) of the National Environmental Management Act, Act No. 107 of 1998, as amended, the lodging of an appeal will suspend the environmental authorisation or any provision or condition attached thereto. In the instance where an appeal is lodged, you may not commence with the activity until such time that the appeal is finalised.

To obtain the prescribed appeal form and for guidance on the submission of appeals, please visit the Department's website at https://www.environment.gov.za/documents/forms#legal_authorisations or request a copy of the documents at appeals@environment.gov.za.

Yours faithfully



Ms. Millicent Solomons
Acting Chief Director: Integrated Environmental Authorisations
Department of Forestry, Fisheries and the Environment
Date: 19/10/2022.

cc:	Jan-Taljaard Marx	Enviro Africa CC	E-mail: jan@enviroafrica.co.za
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environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Private Bag X 447 · PRETORIA · 0001 · Environment House · 473 Steve Biko Road, Arcadia · PRETORIA

DEA Reference: 14/12/16/3/3/1/1854

Enquiries: Ms Makhosi Yeni

Telephone: 012-399-9400 E-mail: MYeni@environment.gov.za

Mr Cornelius Weyers Janse van Rensburg
Roma Energy Vanrhynsdorp (Pty) Ltd
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SOMERSET MALL
7137

Cell number: (082) 631 7496
E-mail address: weyers@kerenenergy.com

PER E-MAIL / MAIL

Dear Mr van Rensburg

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: GN R. 982/983: PROPOSED VANRHYNSDORP SOLAR PHOTOVOLTAIC (PV) FACILITY ON THE REMAINDER OF THE FARM DE DUINEN NO. 258, NEAR VANRHYNSDORP WITHIN MATZIKAMA LOCAL MUNICIPALITY IN THE WESTERN CAPE PROVINCE

With reference to the above application, please be advised that the Department has decided to grant authorisation. The Environmental Authorisation (EA) and reasons for the decision are attached herewith.

In terms of Regulation 4(2) of the Environmental Impact Assessment Regulations, 2014 (the Regulations), you are instructed to notify all registered interested and affected parties, in writing and within 14 (fourteen) days of the date of the EA, of the Department's decision in respect of your application as well as the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, and the provisions regarding the submission of appeals as contained in the Regulations.

Should any person wish to lodge an appeal against this decision, he/she must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party, and any organ of state with interest in the matter within 20 days from the date that the notification of the decision was sent to the registered interested and affected parties by the applicant; or the date that the notification of the decision was sent to the applicant by the Department, whichever is applicable.

Appeals must be submitted in writing in the prescribed form to:

The Director: Appeals and Legal Review of this Department at the below mentioned addresses.

By email: appealsdirector@environment.gov.za;

By hand: Environment House
473 Steve Biko,
Arcadia,
Pretoria,
0083; or

M.S

By post: Private Bag X 447,
Pretoria,
0001

Please note that in terms of Section 43(7) of the National Environmental Management Act, 1998, the lodging of an appeal will suspend the environmental authorisation or any provision or condition attached thereto. In the instance where an appeal is lodged, you may not commence with the activity until such time that the appeal is finalised.

To obtain the prescribed appeal form and for guidance on the submission of appeals, please visit the Department's website at https://www.environment.gov.za/documents/forms#legal_authorisations or request a copy of the documents at appealsdirector@environment.gov.za.

Yours faithfully



Mr Sabelo Majaza
Chief Director: Integrated Environmental Authorisations
Department of Environmental Affairs

Date: 8/05/2018

CC:	Bernard De Witt	Enviro Africa CC (Pty) Ltd	Tel: (021) 851 1616	Email: admin@enviroafrica.co.za
	Ms M. Schippers	Western Cape: DEADP	Tel: (021) 483 8349	Email: enquiries.eadp@westerncape.gov.za
	Mr B. Smit	Matzikama Local Municipality	Tel: (027) 201 3481	Email: bsmit@matzikamamun.co.za



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Environmental Authorisation

In terms of Regulation 25 of the Environmental Impact Assessment Regulations 2014, as amended

The proposed Vanrhynsdorp Solar Photovoltaic (PV) Facility on Remainder of Farm De Duinen no. 258,
near Vanrhynsdorp within Matzikama Local Municipality in the Western Cape Province

West Coast District Municipality

Authorisation register number:	<i>14/12/16/3/3/1/1854</i>
Last amended:	<i>Second issue</i>
Holder of authorisation:	<i>Roma Energy Vanrhynsdorp (Pty) Ltd</i>
Location of activity:	<i>De Duinen no. 258, Matzikama Local Municipality, Western Cape Province</i>

This authorisation does not negate the holder of the authorisation's responsibility to comply with any other statutory requirements that may be applicable to the undertaking of the activity.

Decision

The Department is satisfied, on the basis of information available to it and subject to compliance with the conditions of this environmental authorisation, that the applicant should be authorised to undertake the activities specified below.

Non-compliance with a condition of this Environmental Authorisation may result in criminal prosecution or other actions provided for in the National Environmental Management Act, Act No. 107 of 1998, as amended and the EIA Regulations, 2014, as amended.

Details regarding the basis on which the Department reached this decision are set out in Annexure 1.

Activities authorised

By virtue of the powers conferred on it by the National Environmental Management Act, Act No. 107 of 1998, as amended and the Environmental Impact Assessment Regulations, 2014, as amended, the Department hereby authorises –

ROMA ENERGY VANRHYNSDORP (PTY) LTD

with the following contact details –

Mr Cornelius Weyers Janse van Rensburg
Roma Energy Vanrhynsdorp (Pty) Ltd
PO Box 73
SOMERSET MALL
7137

Cell phone Number: (082) 631 7496
Fax Number: (086) 267 6181
Email Address: weyers@kerenenergy.com

to undertake the following activities (hereafter referred to as "the activity") indicated in Listing Notice 1 (GN R. 983)), as amended:

Listed activities	Activity/Project description
<p><u>GN R. 983 Activity 1(ii):</u> <i>The development of facilities or infrastructure for the generation of electricity from a renewable resource where –</i> (ii) <i>The output is 10 megawatts or less but the total extent of the facility covers an area in excess of 1ha</i></p> <p><i>excluding where such development facilities or infrastructure is for photovoltaic installations and occurs-</i></p> <p>(a) <i>within an urban area; or</i> (b) <i>on existing infrastructure.</i></p>	<p>A solar photovoltaic array with an electricity output of less than 10MW and a footprint greater than 1ha but not exceeding 20ha will be developed. The development will supply 5MW of electricity to the national grid (actual grid electricity capacity) but has nameplate capacity of 5.75 MW.</p>
<p><u>GN R. 983 Activity 27:</u> <i>Clearance of an area of 1ha or more but less than 20ha of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</i></p> <p>(i) <i>the undertaking of a linear activity; or</i> (ii) <i>maintenance purposes undertaken in accordance with a maintenance management plan.</i></p>	<p>Clearance of vegetation within the 20ha demarcated footprint on the site will be required.</p>

as described in the Basic Assessment Report (BAR) dated December 2017 at:

Farm Name: De Duinen No. 258

21 Digit SG code:

C	0	7	8	0	0	0	0	0	0	0	0	0	2	5	8	0	0	0	0	0
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Preferred Lay-out alternative	Latitude	Longitude
Northern Corner	31°34'33.76"S	18°44'48.65"E
Western Corner	31°34'40.32"S	18°44'36.86"E
Southern Corner	31°34'55.51"S	18°44'46.37"E
Eastern Corner	31°34'49.53"S	18°44'58.35"E
Preferred Site alternative	31°34'46.02"S	18°44'46.91"E

- for the proposed construction of the Vanrhynsdorp Solar Photovoltaic (PV) Facility on the remainder of the farm De Duinen No. 258, within the Matzikama Local Municipality in Western Cape Province hereafter referred to as "the property".

The project entails the establishment of an array of crystalline solar photovoltaic (PV) modules, together with associated infrastructure for the generation of 5MW of electricity. The total development footprint including other infrastructure will occupy more than 10ha, but less than 20ha. The proposed development will comprise of 18540 array of poly-crystalline solar PV modules grouped into tables or panels of 20 modules each. The PV tables will be raised approximately 500mm above ground level and will have single axis tracking systems allowing the generation of approximately 5MW which will be evacuation to the national electricity grid.

The PV facility will comprise the following:

- Solar arrays which would generate approximately 5MW and cover an area of 10ha (within the total 20ha site);
- 20ha demarcated footprint, surrounded by a perimeter fire access road and fence;
- Fenced construction staging area (within the 20ha total site area);
- A 3m X 6m maintenance shed (within the 20ha total site area);
- Three inverter-transformer stations on concrete pads (which form part of the 10ha footprint of the actual solar array);
- A switch panel for connection to the power grid; and
- An office with septic tank ablutions (footprint of approximate 450m²)

Conditions of this Environmental Authorisation

Scope of authorisation

1. The preferred Lay-out Alternative 1, preferred Technology Alternative and preferred Site Alternative, for the proposed construction of the Vanrhynsdorp Solar Photovoltaic (PV) Facility on the remainder of the farm De Duinen No. 258, within the Matzikama Local Municipality of the West Coast District in Western Cape Province with the above coordinates is approved.
2. Authorisation of the activity is subject to the conditions contained in this environmental authorisation, which form part of the environmental authorisation and are binding on the holder of the authorisation.

3. The holder of the authorisation is responsible for ensuring compliance with the conditions contained in this environmental authorisation. This includes any person acting on the holder's behalf, including but not limited to, an agent, servant, contractor, sub-contractor, employee, consultant or person rendering a service to the holder of the authorisation.
4. The activities authorised may only be carried out at the property as described above.
5. Any changes to, or deviations from, the project description set out in this environmental authorisation must be approved, in writing, by the Department before such changes or deviations may be effected. In assessing whether to grant such approval or not, the Department may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviations and it may be necessary for the holder of the authorisation to apply for further environmental authorisation in terms of the regulations.
6. The holder of an environmental authorisation must apply for an amendment of the environmental authorisation with the competent authority for any alienation, transfer or change of ownership rights in the property on which the activity is to take place.
7. This activity must commence within a period of five (05) years from the date of issue of this environmental authorisation. If commencement of the activity does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken.
8. Commencement with one activity listed in terms of this environmental authorisation constitutes commencement of all authorised activities.

Notification of authorisation and right to appeal

9. The holder of the authorisation must notify every registered interested and affected party, in writing and within 14 (fourteen) calendar days of the date of this environmental authorisation, of the decision to authorise the activity.
10. The notification referred to must –
 - 10.1. specify the date on which the authorisation was issued;
 - 10.2. inform the interested and affected party of the appeal procedure provided for in the National Appeal Regulations, 2014;
 - 10.3. advise the interested and affected party that a copy of the authorisation will be furnished on request; and
 - 10.4. give the reasons of the competent authority for the decision.

Commencement of the activity

11. In terms of section 43(7), an appeal under section 43 of the National Environmental Management Act, 1998 will suspend the environmental authorisation or any provision or condition attached thereto. In the instance where an appeal is lodged you may not commence with the activity until such time that the appeal has been finalised.

Management of the activity

12. The Layout Plan that was integrated as part of the submitted BAR dated December 2017 is approved.
13. The Environmental Management Programme (EMPr) that was integrated as part of the BAR dated December 2017 is approved. The EMPr must be implemented and adhered to.

Frequency and process of updating the EMPr

14. The EMPr must be updated where the findings of the environmental audit reports, contemplated in Condition 24 below, indicate insufficient mitigation of environmental impacts associated with the undertaking of the activity, or insufficient levels of compliance with the environmental authorisation or EMPr.
15. The updated EMPr must contain recommendations to rectify the shortcomings identified in the environmental audit report.
16. The updated EMPr must be submitted to the Department for approval together with the environmental audit report, as per Regulation 34 of GN R. 982. The updated EMPr must have been subjected to a public participation process, which process has been agreed to by the Department, prior to submission of the updated EMPr to the Department for approval.
17. In assessing whether to grant approval of an EMPr which has been updated as a result of an audit, the Department will consider the processes prescribed in Regulation 35 of GN R.982. Prior to approving an amended EMPr, the Department may request such amendments to the EMPr as it deems appropriate to ensure that the EMPr sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.
18. The holder of the authorisation may apply for an amendment of an EMPr, if such amendment is required before an audit is required. The holder must notify the Department of its intention to amend the EMPr at least 60 days prior to submitting such amendments to the EMPr to the Department for approval. In

assessing whether to grant such approval or not, the Department will consider the processes and requirements prescribed in Regulation 37 of GN R. 982.

Monitoring

19. The holder of the authorisation must appoint an experienced independent Environmental Control Officer (ECO) for the construction phase of the development that will have the responsibility to ensure that the mitigation/rehabilitation measures and recommendations referred to in this environmental authorisation are implemented and to ensure compliance with the provisions of the approved EMPr.
 - 19.1. The ECO must be appointed before commencement of any authorised activities.
 - 19.2. Once appointed, the name and contact details of the ECO must be submitted to the *Director: Compliance Monitoring* of the Department.
 - 19.3. The ECO must keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
 - 19.4. The ECO must remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is ready for operation.

Recording and reporting to the Department

20. All documentation e.g. audit/monitoring/compliance reports and notifications, required to be submitted to the Department in terms of this environmental authorisation, must be submitted to the *Director: Compliance Monitoring* of the Department.
21. The holder of the environmental authorisation must, for the period during which the environmental authorisation and EMPr remain valid, ensure that project compliance with the conditions of the environmental authorisation and the EMPr are audited, and that the audit reports are submitted to the *Director: Compliance Monitoring* of the Department.
22. The frequency of auditing and of submission of the environmental audit reports must be as per the frequency indicated in the EMPr, taking into account the processes for such auditing as prescribed in Regulation 34 of GN R. 982.
23. The holder of the authorisation must, in addition, submit environmental audit reports to the Department within 30 days of completion of the construction phase (i.e. within 30 days of site handover) and a final environmental audit report within 30 days of completion of rehabilitation activities.
24. The environmental audit reports must be compiled in accordance with Appendix 7 of the EIA Regulations, 2014 and must indicate the date of the audit, the name of the auditor and the outcome of the audit in

terms of compliance with the environmental authorisation conditions as well as the requirements of the approved EMPr.

25. Records relating to monitoring and auditing must be kept on site and made available for inspection to any relevant and competent authority in respect of this development.

Notification to authorities

26. A written notification of commencement must be given to the Department no later than fourteen (14) days prior to the commencement of the activity. Commencement for the purposes of this condition includes site preparation. The notice must include a date on which it is anticipated that the activity will commence, as well as a reference number.

Operation of the activity

27. A written notification of operation must be given to the Department no later than fourteen (14) days prior to the commencement of the activity operational phase.

Site closure and decommissioning

28. Should the activity ever cease or become redundant, the holder of the authorisation must undertake the required actions as prescribed by legislation at the time and comply with all relevant legal requirements administered by any relevant and competent authority at that time.

Specific conditions

29. Before the clearing of the site, the appropriate permits must be obtained from the Department of Agriculture, Forestry and Fisheries (DAFF) for the removal of plants listed in the National Forest Act, Act no 84 of 1998, and from the relevant provincial department for the destruction of species protected in terms of the specific provincial legislation. Copies of the permits must be made available on request.
30. Vegetation clearing must be kept to an approved footprint of the proposed development.
31. No exotic plants must be used for rehabilitation purposes, only indigenous plants of the area must be utilised.
32. Should any archaeological sites, artefacts, paleontological fossils or graves be exposed during construction work, work must be stopped immediately and the South African Heritage Resources Agency

(SAHRA) must be informed and the services of an accredited heritage professional obtained for an assessment of the heritage resources must be made.

33. Any solid waste, which will not be recycled, must be disposed of at a landfill licensed in terms of section 20 (b) of the National Environment Management Waste Act, 2008 (Act No. 59 of 2008). No waste material must be left on site after construction.

General

34. A copy of this environmental authorisation, the audit and compliance monitoring reports, and the approved EMPr, must be made available for inspection and copying-
- 34.1. at the site of the authorised activity;
 - 34.2. to anyone on request; and
 - 34.3. where the holder of the environmental authorisation has a website, on such publicly accessible website.
35. National government, provincial government, local authorities or committees appointed in terms of the conditions of this authorisation or any other public authority shall not be held responsible for any damages or losses suffered by the holder of the authorisation or his/her successor in title in any instance where construction or operation subsequent to construction be temporarily or permanently stopped for reasons of non-compliance by the holder of the authorisation with the conditions of authorisation as set out in this document or any other subsequent document emanating from these conditions of authorisation.

Date of environmental authorisation: 8/05/2018



Mr Sabelo Malaza
Chief Director: Integrated Environmental Authorisations
Department of Environmental Affairs

Annexure 1: Reasons for Decision

1. Information considered in making the decision

In reaching its decision, the Department took, *inter alia*, the following into consideration -

- a) The listed activities as applied for in the application form received on 14 November 2017.
- b) The information contained in the BAR dated December 2017 and received by the Department on 18 January 2018.
- c) The comments received from the organ of state interested and affected parties as included in the BAR dated December 2017.
- d) Mitigation measures as proposed in the BAR and the EMPr received by the Department on 18 January 2017.

2. Key factors considered in making the decision

All information presented to the Department was taken into account in the Department's consideration of the application. A summary of the issues which, in the Department's view, were of the most significance is set out below.

- a) The findings of all the specialist studies conducted and their recommended mitigation measures.
- b) The BAR dated December 2017 identified all legislations and guidelines that have been considered in the preparation of the BAR.
- c) The need for the proposed project stems from the provision of electricity to the national grid.
- d) The methodology used in assessing the potential impacts identified in the BAR dated December 2017 and the specialist studies have been adequately indicated.
- e) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2014 for public involvement.

3. Findings

After consideration of the information and factors listed above, the Department made the following findings -

- a) The identification and assessment of impacts are detailed in the BAR dated December 2017 and sufficient assessment of the key identified issues and impacts have been completed.

- b) The procedure followed for impact assessment is adequate for the decision-making process.
- c) The proposed mitigation of impacts identified and assessed adequately curtails the identified impacts.
- d) EMPr proposed mitigation measures for the pre-construction, construction and rehabilitation phases of the development and were included in the BAR. The Mitigation measures will be implemented to manage the identified environmental impacts during the construction phase.

In view of the above, the Department is satisfied that, subject to compliance with the conditions contained in the environmental authorisation, the authorised activities will not conflict with the general objectives of integrated environmental management laid down in Chapter 5 of the National Environmental Management Act, 1998 and that any potentially detrimental environmental impacts resulting from the authorised activities can be mitigated to acceptable levels. The environmental authorisation is accordingly granted.



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

GUIDELINE ON THE ADMINISTRATION OF APPEALS

Please note: This guideline must be read together with the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), and the National Appeal Regulations, 2014.

Enquiries and Comments: All enquiries and comments should be addressed to –

Mr Ziyaad Hassam
Director: Appeals and Legal Review
Department of Environmental Affairs
Private Bag X447
Pretoria
0001,
South Africa.
Tel: 012 399 9356
email: Appealsdirector@environment.gov.za

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APPENDICES

APPEAL QUESTIONNAIRE

APPEAL AND RESPONSE FORM

1. DEFINITIONS

“Appeal Administrator” is a holder of an office in the Department or Provincial Department responsible for environmental affairs who administers the appeal on behalf of the appeal authority;

“Appeal Authority” is the Minister, the MEC or person delegated the power to decide on appeals by the Minister or MEC, as the case may be.

“Appellant” means any person who is entitled to submit an appeal in terms of the laws referred to in regulation 3(1) of these Regulations;

“Decision-maker” means an official who has been delegated the authority to make a decision in terms of the laws referred to in regulation 3(1) of these Regulations;

“Applicant” means a person to whom a decision has been issued in terms of the Act or specific environmental management Act;

“Independent”, in relation to a person appointed as a member of an appeal panel or a person providing an appeal authority with expert advice as contemplated in regulation 6, means—

- (a) that such a person has no business, financial, personal or other interest in the appeal in respect of which that person is appointed in terms of these Regulations other than fair remuneration for work performed in connection with that appeal; and
- (b) that there are no circumstances that may compromise the objectivity of that person in performing such work;

“Person” has the meaning assigned to it in section 1 of NEMA;

“Days” means calendar days.

Note: When a period of days must be reckoned in terms of these regulations, the period must be reckoned as from the start of the day following that particular day to the end of the last day of the period, but if the last day of the period falls on a Saturday, Sunday or public holiday, that period must be extended to the end of the next day which is not a Saturday, Sunday or public holiday, and the period of 15 December to 1 January must be excluded from the reckoning of days.

"Department", means the Department of Environmental Affairs.

"EIA" means Environmental Impact Assessment.

"EIA Regulations", means the Environmental Impact Assessment Regulations promulgated in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998).

"Environmental authorisation" means the authorisation by a competent authority of a listed or specified activity in terms of NEMA, and includes a similar authorisation contemplated in a specific environmental management Act.

"I&AP" means Interested and Affected Party.

"NEMA" means National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended.

"NEMBA" means the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).

"NEM: AQA" means the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004).

"NEM: WA" means the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).

"Public Participation Process", means a process by which potential interested and affected parties are given an opportunity to comment on, or raise issues relevant to, an application.

"SEMA" means Specific Environmental Management Act.

2. INTRODUCTION

- 2.1 The National Appeals Regulations, 2014 has repealed the various appeal regulations currently in effect in terms of NEMA and the SEMAs, and provides for a single appeal process under section 43 of the National Environmental Management Act, 1998 against a decision taken by any person acting under a power delegated by the Minister or MEC.
- 2.2 Section 43 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("*NEMA*") designates the Minister of Environmental Affairs as the appeal authority for a decision made by a delegated official of the Department of Environmental Affairs (the Department) under NEMA or a specific environmental management Act.
- 2.3 The Directorate: Appeals and Legal Review is responsible for administering appeals and making recommendations on appeals to the Minister of Environmental Affairs.
- 2.4 In this respect, the purpose of this guide is to provide information and guidance for applicants, authorities and interested and affected parties ("I&APs") on appeals submitted to the Minister in terms of NEMA and the SEMAs.

3. APPEAL SUBMISSIONS

- 3.1 Chapter 2 of the 2014 Appeal Regulations prescribe that an appellant must submit the appeal to the appeal administrator and to any known interested and affected party within 20 days from the date that the decision for an application for an environmental authorisation in terms of NEMA or a waste management licence in terms of the Waste Act was sent to the registered interested and affected parties, or in the case of decisions where this does not apply, the date that the decision was sent to the applicant.
- 3.2 No appeal is available if the Minister or MEC took the decision himself or herself in his or her capacity as the competent authority, issuing authority or licensing authority. An appeal may, however, be lodged with the Minister or MEC responsible for Environmental Affairs against a delegated decision taken by the Department on an application.
- 3.3 An appeal submission must be submitted in writing in the form obtainable from the Minister or MEC, and must be accompanied by –

- a statement setting out the grounds of appeal;
- additional supporting documentation that is referred to (which did not form part of the original application);
- a statement that the applicant complied with the prescription in regulation 4(1) with relation to the submission period of 20 days, as set out above.

3.4 Appeals may be lodged with the Minister or MEC responsible for Environmental Affairs against a delegated decision taken by the Department on an application, which may include:

3.5 Any new information must be submitted when submitting the appeal.

4. NOTIFICATION OF A DECISION MADE BY THE DEPARTMENT

4.1 On having reached a decision on an application, the Department must, in writing and within 2 days, notify the applicant of the outcome of the decision, give reasons for the decision, and draw the attention of the applicant to the fact that an appeal may be lodged against the decision.

4.2 The applicant must, in writing, within 12 days after the date the decision was made by the Department:

- notify the registered I&APs of the outcome of the decision,
- provide the Department's reasons for the decision,
- draw the attention of all registered I&APs to the manner in which they can access a copy of the decision (note: it is recommended that a copy of the Department's decision be attached to the notice), and
- draw their attention to the fact that an appeal may be lodged against the decision, and the manner in which to lodge an appeal against the decision.

5. LODGING OF AN APPEAL

5.1 An appellant must submit the appeal submission (the Appeal Questionnaire and Appeal and Response Form) to the appeal administrator, the applicant, and known interested and affected parties within twenty (20) days from:

- the date that the decision for an application for an environmental authorisation or a waste management licence was sent to the registered interested and affected parties, or
- the date that the decision was sent to the applicant, in the case of decisions other than those referred to above.

5.2 An appeal submission must be submitted in writing in the form of the appeal questionnaire annexed to this guideline as "Annexure A" and accompanied by:

- a completed Appeal and Response Form setting out the grounds of the appeal,
- supporting documentation that is referred to in the appeal which did not form part of the documentation considered when the original decision was made, and
- a statement by the appellant to confirm compliance with regulation 4(1).

6. SUSPENSION OF AUTHORISATION

In terms of section 47 (7) of NEMA, an appeal will automatically suspend an environmental authorisation, directive, exemption or other decision taken in terms of NEMA, pending the outcome of the appeal.

7. HINTS ON DRAFTING OF APPEALS

- 7.1 The appeal questionnaire must be submitted together with the grounds of appeal. The grounds of appeal must also be captured in the Appeal and Response Form, annexed hereto as Annexure "B";
- 7.2 The appellant must provide their full contact details, i.e. postal address, telephone and cell numbers, fax number and email address;
- 7.3 If the appellant is representing a company or other body of persons, proof of mandate to lodge the appeal on behalf of the company or other entity must be provided;
- 7.4 The identity of the project which is the subject of the appeal, and the departmental reference number, if known, must be provided;
- 7.5 The issues to be considered by the Minister must be clearly identified;

- 7.6 The grounds of appeal and the facts upon which they rest must be clearly set out. The grounds of appeal must be formulated as averments and not as questions about the project (refrain from material or remarks which do not contribute towards the merits of the appeal);
- 7.7 Make a particular issue the subject of a separate ground of appeal, avoiding overlaps as far as possible. Issues should be grouped logically and in a chronological order to provide the Minister with clear timelines of the events or facts in dispute;
- 7.8 A recommended way of arranging issues is to divide the grounds of appeal into procedural grounds, (for example inadequate public participation) and substantive grounds (why the decision is seen as wrong);
- 7.9 Before submitting the appeal, it is recommended that appellants familiarise themselves with the mandate of the department to avoid raising matters falling outside the competence of the Minister on appeal; and
- 7.10 Sign and date the appeal submission.

8. RESPONDING STATEMENT

- 8.1 The responding statement must also be captured in the Appeal and Response Form, which will be provided by the appeal administrator and will have captured the summarised grounds of appeal. The Responding Statement will need to address each ground of appeal as reflected in the Appeal and Response Form.
- 8.2 No new information submitted in the responding statement will be considered by the appeal authority.

9. APPEAL PANEL

- 9.1 If the appeal authority is of the view that expert advice must be sought or that an appeal panel must be appointed, the appeal administrator must source the expert advice or constitute the appeal panel within 10 days from the date of receipt of such an instruction from the appeal authority. The expert or appeal panel must provide advice to the appeal administrator within 10 days from the receipt of the instruction from the appeal administrator.

9.2 A panel of experts must provide their recommendations on the appeal, to the appeal administrator within 10 days of their appointment.

10. DECISION ON APPEAL

Communication in terms of the Regulation 8 of the National Appeal Regulations provides that a document may be issued by the following methods –

- by delivering it by hand
- by faxing it to the person;
- by e-mailing it to a person;

11. TRANSITIONAL ARRANGEMENTS

11.1 Any application or appeal lodged prior to the commencement of the Regulations, and which is still pending when the Regulations takes effect, must be finalised in terms of the legislation that applied at the time when the application or appeal was lodged, and not according to the 2014 National Appeal Regulations.

11.2 Regulation 56(4) of the 2014 EIA Regulations echoes this provision by determining that an appeal lodged in terms of the 2010 EIA Regulations, and which is pending when the 2014 EIA Regulations take effect, must, despite the repeal of the 2010 EIA Regulations, be dispensed of as if those Regulations were not repealed.

12. REQUESTS FOR CONDONATION OR EXTENSION OF TIME PERIODS

12.1 In terms of section 47C of NEMA, the Minister or the MEC has the legal authority to grant an extension or condonation for the submission of an appeal or responding statement which is out of time.

12.2 Applications in terms of Section 47C of NEMA must be in writing, and must afford the other party/parties will be provided with an opportunity to comment on the request;

12.3 When deciding on requests for condonation or extension of time periods, the Minister will consider the following:

- whether good cause is shown to extend a time period,
- the extent of the period requested, or the degree of lateness,
- the factual basis of the motivation for the request and the explanation thereof,
- whether factors outside of the control of the requesting party have played a role,
- potential prejudice in granting or refusing the request to any of the parties.
- whether it is in the interest of justice to grant or refuse the request, and
- prospects of success on the merits.

12.4 The adjudication of a request for condonation or extension of time periods will, as far as practically possible, be communicated together with the appeal decision.

ANNEXURE A

APPEAL QUESTIONNAIRE

An electronic copy of this questionnaire may be obtained from:

Mr Z Hassam at telephone: 012 399 9356 or e-mail:

AppealsDirectorate@environment.gov.za

Once completed, this document must be forwarded to:

E-mail: AppealsDirectorate@environment.gov.za

Physical Address: Department of Environmental Affairs, 473 Steve Biko Road,
Environment House, Arcadia, Pretoria, 0002

Appellant's contact information:

Name: _____

Address: _____

Phone: _____

Cell: _____

Email: _____

Project information:

Project name: _____

Authorisation register number as on environmental authorisation:

Authorisation date as on environmental authorisation:

IMPORTANT! Please note:

- *The decision of the department is reflected in the letter of authorisation or rejection. The conditions of approval are contained in the environmental authorisation document, attached to the authorisation letter.*
- *The appeal must be accompanied by all relevant supporting documents or copies of these that are certified as true by a commissioner of oaths.*
- *The grounds of your appeal and the facts upon which they rest must be set out. You should formulate your objections or concerns as averments and not as questions about the project. Please therefore refrain from material or remarks that do not contribute to the merits of your appeal.*
- *To assist in this regard, the following questions are listed as a guideline only – more space may be used if necessary:*

1. Are you lodging this appeal as an individual or on behalf of a community/organisation?

Individual	Community/ organisation
------------	----------------------------

If on behalf of a community or organisation, please provide proof of mandate to do so.

2. Is your appeal based on factors associated with the process that was followed by the applicant in obtaining authorisation?

Yes	No
-----	----

Please provide reasons:

3. Is your appeal based on factors associated with environmental impacts not taken into account by the department in refusing or authorising the application?

Yes	No
-----	----

Please provide reasons:

4. Would you agree to the activity proceeding if your concerns can be addressed by rectifying the process or mitigating or eliminating the impacts of the activity?

Yes	No
-----	----

Please provide reasons:

5. Are you fundamentally opposed to any development activity on the site?

Yes	No
-----	----

Please provide reasons:

6. Do you have an objection in principle against the development?

Yes	No
-----	----

Please provide reasons:

7. Does your appeal contain any new information that was not submitted to the environmental consultant or department prior to the department's consideration of the application?

Yes	No
-----	----

If the answer above is yes, please explain why it should be considered by the Minister and why it was not made available to the environmental consultant or department during the application process.

8. **DECLARATION:**

I declare that the contents of this submission are to the best of my knowledge the truth and I regard this declaration as binding on my conscience.

APPELLANT

DATE:

ANNEXURE B



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Private Bag X447, Pretoria, 0001, Environment House, 473 Steve Biko Road, Pretoria, 0002

Email: Appealsdirector@environment.gov.za

APPEAL RESPONSE REPORT

PROJECT NAME/TITLE:

PROJECT LOCATION:

PROJECT REFERENCE NUMBER:

DATE PROJECT/ACTIVITY AUTHORISED:

DETAILS OF THE APPELLANT	DETAILS OF THE APPLICANT
Name of appellant:	Name of applicant:
Appellant's representative (if applicable):	Applicant's representative (if applicable):
Postal address:	Postal Address:
Email Address:	Email Address:
Telephone number:	Telephone number:
Fax Number:	Fax number:

GROUNDS OF APPEAL	RESPONDING STATEMENT	COMMENT BY THE DEPARTMENT / DMR
1.		
2.		
3.		
4.		
5.		