



REFERENCE: 16/9/2/F5/16/2256/24

DATE: 18 NOVEMBER 2024

The Municipal Manager
Swartland Municipality
Private Bag X52
MALMESBURY
7299

For Attention: Ms. Madelaine Terblanche

Tel.: (022) 487 9400

E-mail: TerblancheM@swartland.org.za

Dear Madam

REQUEST IN TERMS OF THE "NORM FOR EXCLUSION OF THE DEVELOPMENT AND EXPANSION OF SOLAR PHOTOVOLTAIC ("PV") FACILITIES IN AREAS OF LOW OR MEDIUM ENVIRONMENTAL SENSITIVITY" (MARCH 2024): THE PROPOSED DEVELOPMENT OF A SOLAR ("PV") FACILITY AND ASSOCIATED INFRASTRUCTURE ON A PORTION OF ERF 327, MALMESBURY

1. The request for the Registration of the abovementioned proposal signed by the applicant as per the attached declaration form on 29 May 2024 and compiled by the appointed Environmental Assessment Practitioner, Mr. Clinton Geyser of EnviroAfrica cc, as received by this Directorate via electronic mail correspondence on 06 November 2024, refers.
2. Please find below the outcome of the request.

Details of the request:

3. Project details:

The proposal entails the development of a solar PV facility with a total generating capacity of 19.8 Mega Watt ("MW") and will cover an area of approximately 63ha.

The associated infrastructure will include the following:

- a solar panel array;
- a laydown area;
- maintenance offices;
- 11 kilovolt ("kV") underground cable at a length of approximately 4.4km;
- lithium battery storage and electrical reticulation equipment;
- modules mounted on a table array anchored to the ground utilising rammed or planted steel support posts; and
- a concrete foot piece secured to a steel pen driven into the ground, where ramming is not feasible.

The PV Panel technology to be used, i.e. the photovoltaic effect (converting solar radiation using semiconductors) will include the following components:

- PV Cell / device;
- PV Module / panel; and

- PV Array interconnected system including mounting structures and panels.

The facility and associated infrastructure will be accessed via existing access road.

A 6m wide management and access type track will additionally surround each block of photovoltaic arrays.

4. The person requesting registration in terms of the norm:

Swartland Municipality
c/o Ms. Madelaine Terblanche
Private Bag X52
MALMESBURY
7299

Tel.: (022) 487 9400

E-mail: TerblancheM@swartland.org.za

5. Environmental Assessment Practitioner ("EAP"):

EnviroAfrica cc
c/o Mr. Clinton Geysler of
P. O. Box 5367
HELDERBERG
7446

Tel.: (021) 851 1616

E-mail: clinton@enviroafrica.co.za

6. Site description and location:

The project area is located on a Portion of Erf 327, Malmesbury.

The proposed site is located just outside Malmesbury, approximately 1km east of the town centre. The site is located on the south-eastern side of the R45 and is accessed via Smuts Street along an existing gravel road.

The SG 21-digit code is: C04600080000032700000

The Co-ordinates are:

Latitude: 33° 28' 01.40" South

Longitude: 18° 45' 07.70" East

Refer to Annexure 1 attached to this document for the Locality Plan and Site Development Plan (which has not been registered).

The above is hereinafter referred to as "**the site**".

Outcome of the request / Confirmation of Registration:

7. Considering the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Schedule to the Adoption of the Solar Exclusion Norm and Exclusion of solar PV facilities from the requirement to obtain an Environmental Authorisation (Government Notice No. 4558 of 27 March 2024) ("Solar Exclusion Norm"), the competent authority has determined that the Final Registration Request (dated 29 May 2024), as prepared by Mr. Clinton Geysler of (EAPASA No.: 2021/3287) of EnviroAfrica cc, conforms to the requirements of the norm.

The request to register the proposed development in terms of the exclusion norm contemplated in Government Notice No. 4558 of 27 March 2024 **is granted**. Please refer to Annexure 2 (attached hereto) for the reasons for the decision.

Legislative requirements and procedural arrangements:

8. In terms of section 43 of the NEMA and the norm contemplated in section 24(2)(d) of NEMA, a person is entitled to lodge an appeal against this decision.
9. Notification and Administration of Appeals
The Requester must within 14 (fourteen) calendar days of the date of the decision give written notice to all the interested and affected parties ("I&APs"), including all organs of state which were identified and engaged by the EAP during the public participation process. The notice must–
 - 9.1. inform the I&APs of –
 - (a) the outcome of the decision;
 - (b) the date of the decision; and
 - (c) the date of issue of the decision;
 - 9.2. inform the I&APs of the fact that an appeal may be lodged against the decision in terms of the NEMA National Appeal Regulations (GN R.993 of 8 December 2014 as amended); and
 - 9.3. draw the attention of all the I&APs to the manner in which they may access the decision.
10. Appeals must comply with the provisions contained in the National Appeal Regulations 2014 (as amended). Such appeal must be directed to the Appeals Authority set out in Annexure 3 hereto.
11. Please note that the activities may not commence or be undertaken prior to an environmental authorisation being granted or an exclusion norm being registered by the Department. It is an offence in terms of Section 49A 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, or if that person fails to comply with any applicable norm or standard contemplated in section 24(2)(d) of the NEMA.

Offences in terms of the NEMA and the applicable Norms contemplated in section 24(2)(d), will render the offender liable for criminal prosecution.

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.
12. Notwithstanding the request for registration in terms of an exclusion norm, the Requester must still comply with any other statutory requirements that may be applicable to the undertaking of this activity.
13. Kindly quote the abovementioned reference number in any future correspondence concerning the abovementioned development.

14. This Directorate reserves the right to revise or withdraw its comments and request further information from you based on any information received.

Your interest in the future of the environment is greatly appreciated.

Yours faithfully

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DATE OF DECISION: 18 NOVEMBER 2024

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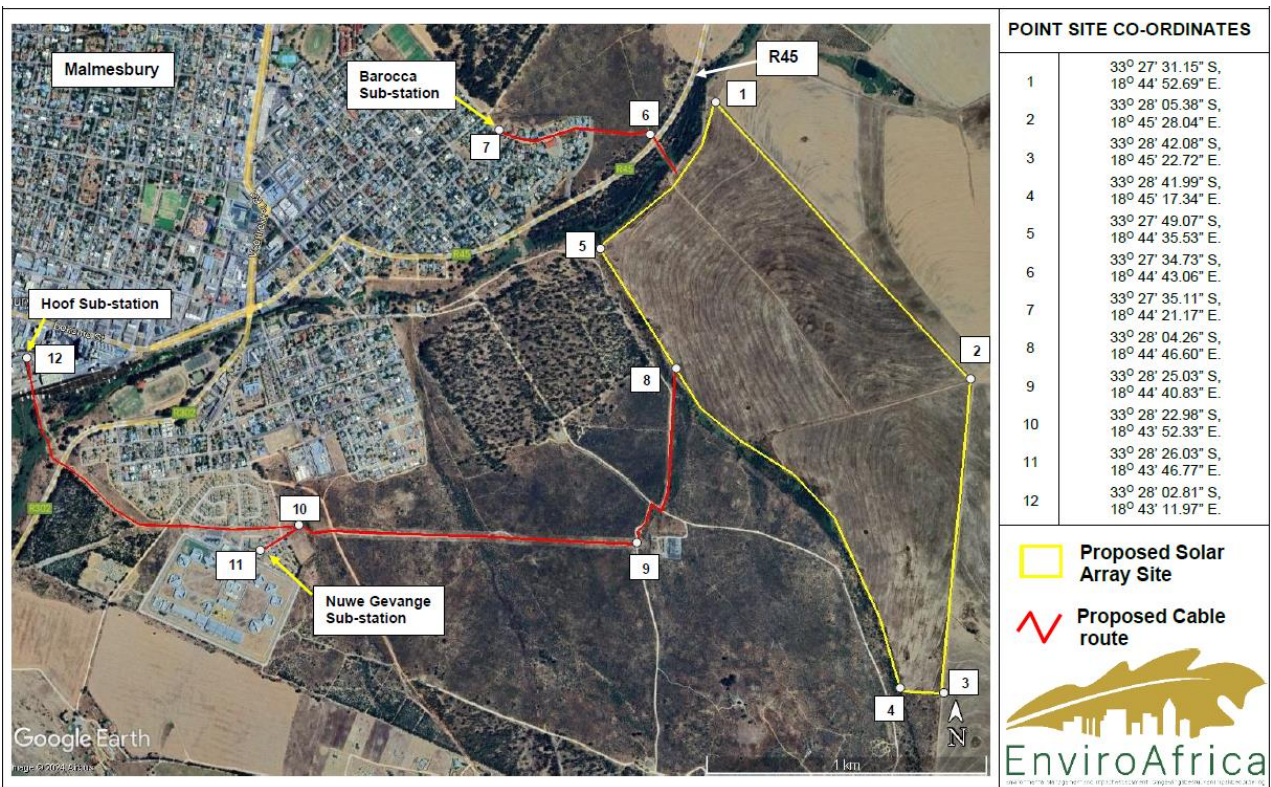
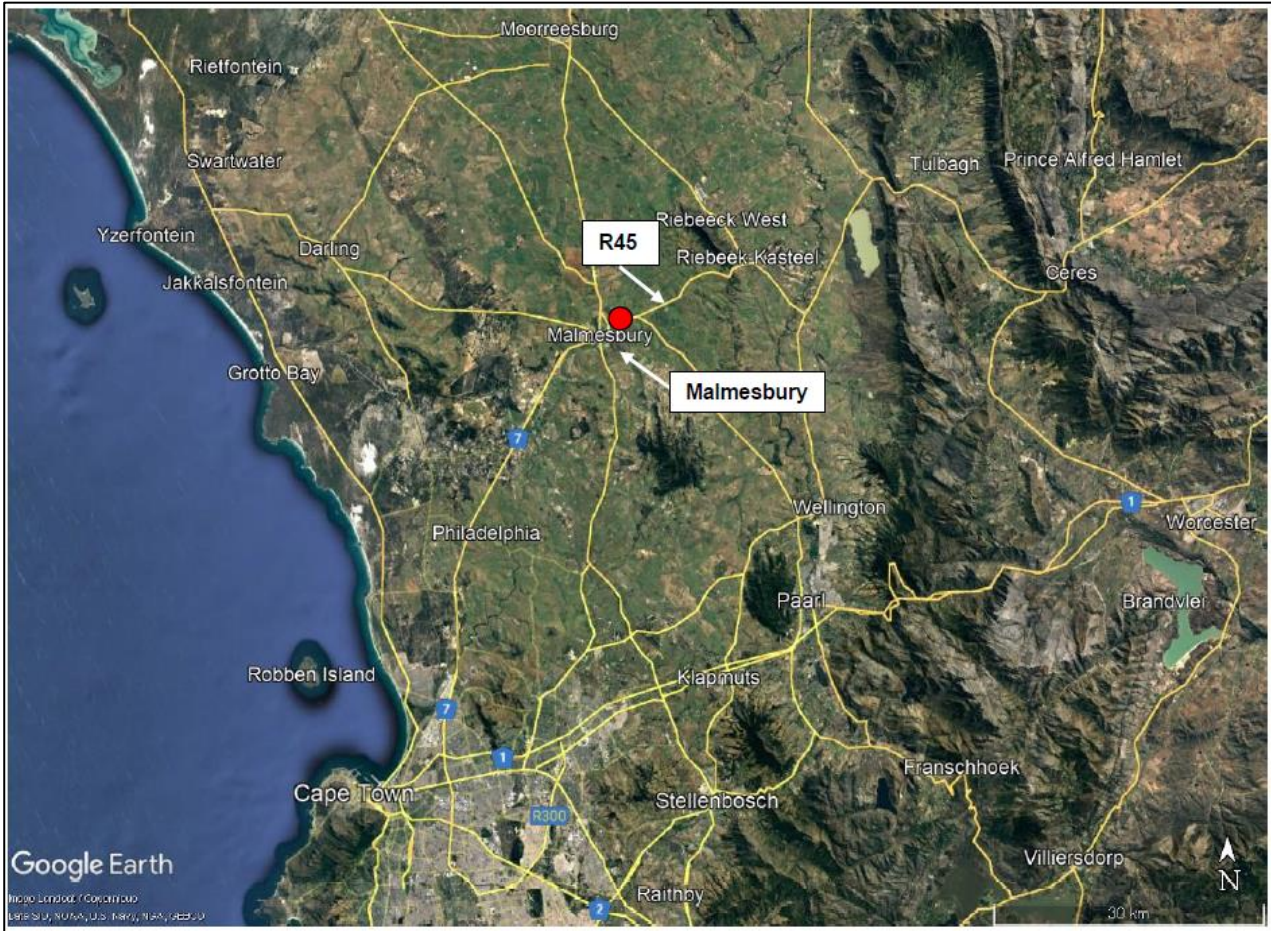
- (1) Mr. Clinton Geyser (EnviroAfrica CC)
- (2) Mr. A. Zaayman (Swartland Municipality)
- (3) Ms. Adri La Meyer (DEA&DP: Development Facilitation)

E-mail: clinton@enviroafrica.co.za

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ANNEXURE 1: LOCATION AND PROPOSED SITE DEVELOPMENT PLAN



ANNEXURE 2: REASONS FOR THE DECISION

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The Final Registration Form and annexures (signed by the applicant as per the declaration form on 29 May 2024) and the Environmental Management Programme ("EMPr") (dated May 2024) as received by this Directorate on 6 November 2024.
- b) Relevant information contained in the Departmental information base.
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA and the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000, as amended) ("PAJA").
- d) The comments received from I&APs and responses to these, included in the Comments and Response Report (dated November 2024).

1. Considering a request for registration of a development in terms of a norm:

The consideration of the request for the registration of the proposed development in terms of the norm for exclusion of the development and expansion of solar PV facilities in areas of low or medium environmental sensitivity, is regarded to conform to the definition of an "administrative action" and a "decision" as defined in the Promotion of Administrative Justice, 2000 (Act No. 3 of 2000) ("PAJA"), consequently the decision must adhere to the provisions of PAJA.

2. Public Participation:

The Public Participation Process comprised of the following:

- Notifications were sent all relevant Interested and Affected Parties as well as authorities on 18 June 2024 and 1 October 2024 regarding the intention to request Registration;
- Distributing the relevant information, including *inter alia*, draft Site Sensitivity Verification Report, Specialist Assessments and the draft EMPr for a 30-day commenting period, i.e. 20 June 2024 to 22 July 2024; and
- Distributing the relevant information, including *inter alia*, draft amended Site Sensitivity Verification Report, Specialist Assessments and the draft EMPr for a 30-day commenting period, i.e. 2 October to 4 November 2024.

The following authorities were consulted:

- Swartland Municipality;
- Western Cape Government: Department of Agriculture;
- Heritage Western Cape;
- CapeNature;
- Department of Water and Sanitation; and
- Department of Forestry, Fisheries and the Environment.

All the comments raised by the respective I&APs and organs of state, were responded to and captured in the report by the EAP.

3. Minimum information requirements and legislative requirements:

Terrestrial Biodiversity, Plant Species and Animal Species Themes:

According to the Terrestrial Biodiversity Compliance Statement (dated 28 February 2024) compiled by P. J. J. Botes of PB Consult, the site is in a transformed state as a result of long-term commercial agriculture (that is, dry land, commercial annual crops & grazing). Apart from the adjoining river systems (and their associated riparian vegetation), the only botanical features of any significance were the presence of three (3) mature wild olive trees (*Olea europaea*). Because of the degraded state of the site, it is considered unlikely that the proposed solar facility will result in any significant impact on the plant species sensitivity theme.

Because of the site's long history of agriculture and the transformed nature of the veld, it was also considered highly unlikely that the proposed development would result in any significant

additional impact on any faunal or avi-faunal species. The animal species theme sensitivity is therefore deemed to be Low Sensitive.

The necessary measures to mitigate any terrestrial biodiversity related impacts, as per the abovementioned Terrestrial Biodiversity Compliance Statement were included in the EMPr.

Aquatic Biodiversity Theme:

According to the Freshwater Report (dated January 2024 – revised) compiled by WATSAN Africa, the Diep River and a drainage line border the proposed site. These features are already impacted by agriculture, urban and industrial development and roads, bridges and railway lines and further suffered a significant loss of ecosystem functioning. The proposed facility during its construction and operation phases, is not expected to materially add to these impacts.

The construction and maintenance of the proposed solar PV facility and associated infrastructure can be classified as low-impact actions. The impacts would therefore be of very low to negligible significance.

Agricultural Theme:

According to the Agricultural Agro-Ecosystem Specialist Assessment (dated 13 March 2024) compiled by Mr. Johann Lanz, the use of the proposed site for non-agricultural purposes will cause minimal loss of agricultural production potential in terms of national food security and therefore poses a minimal threat to agricultural production potential. The land is municipally owned and was previously rented to a farmer, but has not been rented or used for agricultural production for several years. The proposed development will therefore not have any impacts on any current and active agricultural production on-site. The agricultural production potential of the land was deemed marginal for viable rainfed small grain cropping due to factors such as low water and nutrient holding capacity of the bleached, sandy upper soil horizons, limited soil depth in places, and limited drainage.

The overall negative agricultural impact of the development (loss of future agricultural production potential) was deemed to be of low negative significance. Certain measures to further mitigate agricultural-related impacts as per the abovementioned Agricultural Agro-Ecosystem Specialist Assessment were included in the EMPr.

Archaeological and Cultural Heritage/Paleontological Theme:

A Heritage 'Notice of Intent to Develop' was submitted to Heritage Western Cape ("HWC"). The final comment from HWC (dated 10 October 2023), revealed that there is no reason to believe that the proposed solar facility will impact heritage resources. No further action under Section 38 of the National Heritage Resources Act, 1999 (Act 25 of 1999) is required.

Landscape (Solar) Theme

According to the Visual Impact Assessment (dated 15 January 2024) compiled by Eco-Thunder Consulting (Pty) Ltd. the proposed development will be located in an area comprising of variegated terrain inclusive of *inter alia*, gently rolling topography and an overarching landscape character which includes rural, agrarian, heritage and urban elements. Despite these factors, the abovementioned assessment deemed it necessary that the very high Sensitivity Rating in terms of the Landscape (Solar) Theme be reduced, due to certain aspects. These include the local area comprising some anthropocentric developments which introduced a degree of visual intrusion into the landscape, the lack of unique visual resources present in the area and the lack of scenic value and vegetation. It was however deemed necessary that the proposal be developed in a manner to coexist with the surrounding environment. This was further necessitated due to the impacts it presents during the construction and operational phases.

During the construction phase, the impacts include temporary changes in the visual character of the landscape, the construction activities being visible for certain receptors and dust generation. As a result, measures as per the abovementioned Visual Impact Assessment is necessary to mitigate these impacts. These measures which were included in the EMPr will

ultimately mitigate the abovementioned impacts from being of a high negative to medium and low negative significance.

During the operational phase, the impacts include altering the visual landscape, the facility being a visible addition to the local landscape, light pollution (potential), causing solar glint and glare, being a permanent fixture in the landscape and having the presence of large-scale, flat, reflective surfaces. As a result, measures outlined in the abovementioned Visual Impact Assessment are necessary to mitigate these impacts. These measures which were included in the EMPr will ultimately mitigate the abovementioned impacts from being of a high negative to medium and low negative significance.

The implementation of the necessary mitigation measures was viewed as a key factor to adequately integrate the proposed solar PV facility and the associated infrastructure into the local landscape.

Civil Aviation and Defence Themes:

The proposed development is for a solar PV facility and will thus not pose any threat to civil aviation within the area. Further, the proposed powerlines will either be underground, or where above-ground, it will be located along existing powerline routes which will not be higher than the existing powerlines.

4. NEMA Principles:

The NEMA Principles (set out in section 2 of the NEMA, which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), inter alia, provides for:

- the effects of decisions on all aspects of the environment to be considered;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between Organs of State through conflict resolution procedures; and
- the selection of the best practicable environmental option.

You are reminded of your general duty of care towards the environment in terms of Section 28(1) of the NEMA which states: *“Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.”*

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