

## SiVEST

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Established 1952

DBVO verwysing: 14/12/16/3/3/1/2265

Ons verwysing: 16235 – Oya Grid

Datum: 03 Mei 2021

Geagte Belangstellende en/of Geaffekteerde Party / Belanghebbende,

### **BASIESE EVALUERINGSPROSES (BE-PROSES) VIR DIE BEOOGDE ONTWIKKELING VAN DIE OYA 132KV KRALGYNE NABY MATJIESFONTEIN IN DIE NOORD- EN WES-KAAPPROVINSIES**

- **DBVO Verwysingsno.: 14/12/16/3/3/1/2265**
- **KENNISGEWING VAN OMGEWINGSMAGTIGING (OM) WAT DEUR DEPARTEMENT VAN BOSBOU, VISSERYE EN DIE OMGEWING (DBVO) UITGEREIK IS**

Ons wil graag van hierdie geleentheid gebruik maak om u in kennis te stel dat die Finale Basiese Evaleuringsverslag vir die bogenoemde beoogde projek op **15 Januarie 2021** aan die Departement van Bosbou, Visserye en die Omgewing (DBVO) (voorheen bekend as die Departement van Omgewing, Bos en Visserye [DOBV]) ingedien is vir oorweging en besluitneming en dat die Departement op die selfde dag (naamliks 15 Januarie 2021) ontvangs daarvan erken het.

Nadat die DBVO die dokumentasie nagegaan het, is die Omgewingsmagtiging (OM) uitgereik ingevolge die Nasionale Wet op Omgewingsbestuur, 1998 (Wet 107 van 1998) (WNOB) en die Regulasies op Omgewingsimpakevaluerings (OIE-regulasies) 2014 (soos gewysig), vir die bogenoemde beoogde projek.

Die OM is op 03 Mei 2021 uitgereik, maar is **29 April 2021** gedateer. Die redes vir die besluit word gestipuleer in bylaag "Annexure" 1 ("*Reasons for Decision*") van die OM, wat by hierdie brief aangeheg is.

U word versoek om u aandag te vestig op Hoofstuk 2 van die WNOB Nasionale Appél Regulasies, gepubliseer in Goewerment kennisgewing R993 in die Staatskoerant No 38303 gedateer 8 Desember 2014 (Nasionale Appél Regulasies, 2014), wat die appél prosedure voorskryf wat gevolg moet word. As enigiemand 'n appél teen hierdie besluite wil indien, moet hy / sy 'n appél indien by die administrateur van appèlle en 'n afskrif van die appél stuur aan die houder van die OM, enige geregistreerde belangstellende en geaffekteerde party en enige staatsinstansie met 'n belang in die aangeleentheid, binne twintig (20) dae vanaf die datum waarop die applikant die kennisgewing van die besluite aan die geregistreerde belangstellende en geaffekteerde partye gestuur het (m.a.w. binne 20 dae vanaf 03 Mei 2021).

#### **Appèlle moet skriftelik op die voorgeskrewe vorm ingedien word by:**

Direkteur: Appèlle en Regsoorsig van die DBVO by die onderstaande adresse:

Per e-pos: [appeals@environment.gov.za](mailto:appeals@environment.gov.za)

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MK-LH-2 Rev 06/20

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0083; of

Per Pos: Privaatsak X447  
Pretoria  
0001

Neem asseblief kennis dat appèlle nie net aan SiVEST of die houer van die OM gestuur moet word nie.

Vir meer besonderhede, tree asseblief in verbinding met SiVEST by:

**SiVEST Environmental:** Stephan Jacobs of Hlengiwe Ntuli

Tel: (011) 798 0600

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E-pos: [sivest\\_ppp@sivest.co.za](mailto:sivest_ppp@sivest.co.za) / [stephanj@sivest.co.za](mailto:stephanj@sivest.co.za) / [hlengiwen@sivest.co.za](mailto:hlengiwen@sivest.co.za)

Raadpleeg asseblief die Nasionale Appèlregulasies (2014), hierby aangeheg, vir besonderhede met betrekking tot die appèlproses.

Om die voorgeskrewe appèlvorm te bekom en vir leiding oor die indiening van appèlle, besoek asseblief die DBVO se webwerf by: [https://www.environment.gov.za/documents/forms#legal\\_authorisations](https://www.environment.gov.za/documents/forms#legal_authorisations) of versoek 'n afskrif van die dokumente by: [appeals@environment.gov.za](mailto:appeals@environment.gov.za).

Ons wil u ook graag bedank vir u deelname aan die BE en openbare deelnameprosesse vir die bogenoemde beoogde projek.

Die uwe



Stephan Jacobs  
Omgewingskonsultant  
**SiVEST Omgewingsafdeling**

Ingeslote dokumentasie: Nasionale Appèlregulasies, 2014

Omgewingsmagtiging (OM): DBVO Verwysingsnommer: 14/12/16/3/3/1/2265

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## GOVERNMENT NOTICES

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### DEPARTMENT OF ENVIRONMENTAL AFFAIRS

No. R. 993

8 December 2014

#### NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998)

#### NATIONAL APPEAL REGULATIONS

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby make the regulations pertaining to the processing, consideration of, and decision on appeals, under section 44(1)(a) read with section 43(4) of the National Environmental Management Act, 1998 (Act No. 107 of 1998), as set out in the Schedule hereto.



**BOMO EDITH EDNA MOLEWA**  
**MINISTER OF ENVIRONMENTAL AFFAIRS**

**SCHEDULE**

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## CHAPTER 1

## INTERPRETATION AND PURPOSE OF REGULATIONS

## Interpretation

1. (1) In these Regulations any word or expression to which a meaning has been assigned in the Act, and unless the context requires otherwise—

**“appeal administrator”** means 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 a 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 legislation 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 of these Regulations, 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;

**“the Act”** means the National Environmental Management Act, 1998 (Act No. 107 of 1998).

- (2) 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 5 January must be excluded from the reckoning of days.
- (3) Where a prescribed timeframe is affected by one or more public holidays, the timeframe must be extended by the number of public holiday days falling within that timeframe.

**Purpose of Regulations**

2. The purpose of these Regulations is to regulate the procedure contemplated in section 43(4) of the Act relating to the submission, processing and consideration of, a decision on an appeal.

**Application of Regulations**

3. (1) These Regulations are applicable to an appeal in terms of section 43 of the Act to the Minister or MEC against a decision taken in terms of the:
- (a) Environment Conservation Act, 1989 (Act No. 73 of 1989);
  - (b) National Environmental Management Act, 1998 (Act No. 107 of 1998);
  - (c) National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);
  - (d) National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004); or
  - (e) National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008);

and subordinate legislation made in terms of any of these Acts.

- (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.
- (3) An appeal against a decision by an official or municipal manager acting under delegated authority from a metropolitan, district or local municipality must be submitted, processed and considered in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

**CHAPTER 2****ADMINISTRATION AND PROCESSING OF APPEALS****Appeal submission**

4. (1) An appellant 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:

- (a) the date that the notification of the decision for an application for an environmental authorisation or a waste management licence was sent to the registered interested and affected parties by the applicant; or
  - (b) the date that the notification of the decision was sent to the applicant by the competent authority, issuing authority or licensing authority, in the case of decisions other than those referred to in paragraph (a).
- (2) An appeal submission must be—
- (a) submitted in writing in the form obtainable from the appeal administrator; and
  - (b) accompanied by—
    - (i) a statement setting out the grounds of appeal;
    - (ii) supporting documentation which is referred to in the appeal submission; and
    - (iii) a statement, including supporting documentation, by the appellant to confirm compliance with regulation 4(1) of these Regulations.

### **Responding statement**

5. The applicant, the decision-maker, interested and affected parties and organ of state must submit their responding statement, if any, to the appeal authority and the appellant within 20 days from the date of receipt of the appeal submission.

### **Appeal panel**

6. (1) If the appeal authority reasonably believes that expert advice must be sought or that an appeal panel must be appointed, the appeal administrator must source an independent expert or constitute an independent appeal panel, or both, within 10 days from the date of receipt of an instruction from the appeal authority.
- (2) The appeal panel contemplated in subregulation (1) may consist of such number of independent experts and with such expertise as the Appeal Authority may deem necessary under the circumstances;
- (3) The expert or appeal panel must provide advice to the appeal administrator within 10 days from the receipt of an instruction from the appeal administrator.

**Recommendations and decisions on appeals**

7. (1) The appeal administrator must make a recommendation on the appeal to the appeal authority within 30 days of receipt of the responding statement referred to in regulation 5 of these Regulations, in the event that an independent expert has not been sourced or an independent appeal panel has not been constituted.
- (2) The appeal administrator must make a recommendation on the appeal to the appeal authority within 10 days of receipt of the advice referred to in regulation 6(2) of these Regulations, in the event that an independent expert has been sourced or an independent appeal panel has been constituted.
- (3) The appeal authority must reach a decision on an appeal, and notify the appellant, applicant, and any registered interested and affected party, within 20 days of the recommendation on the appeal by the appeal administrator.
- (4) The decision contemplated in subregulation (3) must contain written reasons for the decision.

**Communication**

8. (1) A person may deliver documents in terms of these regulations by using one of the delivery methods referred to in section 47D of the Act.
- (2) In order to meet the time periods determined in these regulations, the person referred to in subregulation (1), must also email, fax or hand deliver the document to the recipient, if the document is delivered by ordinary mail or registered mail.

**CHAPTER 3****GENERAL MATTERS****Repeal of regulations**

9. The regulations mentioned in the Table in Annexure 1 to these Regulations are hereby repealed or amended to the extent set out in the third column of the Table.

**Transitional arrangements**

10. (1) An appeal lodged prior to the commencement of these Regulations, and which is still pending when these Regulations takes effect, must be finalised in terms of the legislation that applied at the time when the appeal was lodged.
- (2) An appeal lodged after the commencement of the Environmental Impact Assessment Regulations, 2014 must be submitted, processed and considered in terms of these Regulations.

**Short title and commencement**

11. These Regulations are called the National Appeal Regulations, 2014, and take effect on the date of publication in the *Gazette*.

## ANNEXURE 1

REGULATIONS REPEALED		
Date and year of publication	Short title	Extent of repeal
Government Notice No. R.543, <i>Gazette No. 33306</i> of 18 June 2010.	Environmental Impact Assessment Regulations, 2010.	Chapter 7.



**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](mailto:Appealsdirector@environment.gov.za)

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## 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](mailto: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:*

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

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

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

Yes	No
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Please provide reasons:

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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
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Please provide reasons:

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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
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Please provide reasons:

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

Yes	No
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Please provide reasons:

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

Yes	No
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Please provide reasons:

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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
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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.

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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.

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**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](mailto: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.		





# 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: 14/12/16/3/3/1/2265

Enquiries: Mr Thando Booï

Telephone: (012) 399 9387 E-mail: TBooi@environment.gov.za

Dr Kilian Hagemann  
Oya Energy (Pty) Ltd  
5<sup>th</sup> Floor, 125 Buitengracht Street  
CAPE TOWN  
8001

Telephone Number: (021) 300 0613  
Email Address: [oya@g7energies.com](mailto:oya@g7energies.com)

## PER EMAIL / MAIL

Dear Dr Kilian Hagemann

### APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, ACT NO. 107 OF 1998, AS AMENDED: FOR THE PROPOSED DEVELOPMENT OF THE 132KV OYA POWER LINE NEAR MATJIESFONTEIN, WESTERN AND NORTHERN CAPE PROVINCES

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, 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 decision as well as the provisions regarding the submission of appeals that are contained in the Regulations.

In terms of the Promotion of Administrative Justice Act, 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, 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.

Your attention is drawn to Chapter 2 of National Environmental Management Act, 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.

Mr

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](mailto: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](https://www.environment.gov.za/documents/forms#legal_authorisations) or request a copy of the documents at [appeals@environment.gov.za](mailto:appeals@environment.gov.za).

Yours faithfully



**Mr Sabelo Malaza**  
Chief Director: Integrated Environmental Authorisations  
Department of Forestry, Fisheries and the Environment  
Date: 29/04/2021

cc:	Liandra Scott-Shaw	SIVEST SA (Pty) Ltd	Email: <a href="mailto:liandras@sivest.co.za">liandras@sivest.co.za</a>
	Mr Zaahir	DEADP: Western Cape	Email: <a href="mailto:Zaahir.toefy@westerncape.gov.za">Zaahir.toefy@westerncape.gov.za</a>
	Mr Hennie Taljaard	Witzenberg Local Municipality	Email: <a href="mailto:htaljaard@witzenberg.gov.za">htaljaard@witzenberg.gov.za</a>
	Thulani Mthombeni	DENC: Northern Cape	Email: <a href="mailto:tmthombeni@ncgp.gov.za">tmthombeni@ncgp.gov.za</a>
	Jannie Fortuin	Karoo Hoogland Local Municipality	Email: <a href="mailto:info@karoohoogland.gov.za">info@karoohoogland.gov.za</a>

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## forestry, fisheries & the environment

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

# Environmental Authorisation

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

The development of the 132kV Oya power line near Matjiesfontein, Western and  
Northern Cape Provinces

Winelands and Namakwa District Municipalities

Authorisation register number:	14/12/16/3/3/1/2265
Last amended:	First issue
Holder of authorisation:	Oya Energy (Pty) Ltd
Location of activity:	Remainder of the Farm Baakens Rivier No 155; Portion 1 of the Farm Gats Rivier No 156; Remainder of the Farm Gats Rivier No 156; Portion 1 of the Farm Amandelboom No 158; Remainder of the Farm Oliviers Berg No 159, Portion 4 of the Farm Bantamsfontein No 168, Portion 13 of the Farm Bantamsfontein No 168; Remainder of the Farm Lower Roodewal No 169; Remainder of the Farm Matjiesfontein No 194; The Farm Platfontein No 240; The Farm Die Brak No 241; and Remainder of the Farm Rietpoort No 243 in Ward 12 of Witzenberg Local Municipality and Ward 3 of Karoo Hoogland Local Municipality in Cape Winelands and Namakwa District Municipalities in the Northern Cape and Western Cape Provinces

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 –

### **OYA ENERGY (PTY) LTD**

with the following contact details –

Dr Killian Hagemann

Oya Energy (Pty) Ltd

5<sup>th</sup> Floor, 125 Buitengracht Street

**CAPE TOWN**

8001

Telephone Number: (021) 300 0613

Email Address: oya@g7energies.com

to undertake the following activities (hereafter referred to as “the activity”) indicated in Listing Notice 1 and Listing Notice 3 of the EIA Regulations, 2014 as amended:

Activity number	Activity description
<p><u>Listing Notice 1: Item 11</u></p> <p><i>“The development of facilities or infrastructure for the transmission and distribution of electricity—</i>  <i>(i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts”</i></p>	<p>The proposed development will include a 132kV power line (300m corridor) and 33/132kV substations to feed electricity generated by a proposed hybrid energy facility (namely the proposed Oya Energy Facility–14/12/16/3/3/2/2009) owned by the applicant as well as potentially nearby energy developments into the national grid at the Kappa substation. The development will be located outside urban areas.</p>
<p><u>Listing Notice 1: Item 12:</u></p> <p><i>“The development of:</i>  <i>(ii) infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs-</i>  <i>(a) within a watercourse;</i>  <i>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse”</i></p>	<p>The proposed development will entail the construction of buildings and other infrastructure with a physical footprint of approximately 100m<sup>2</sup> or more within a surface water feature / watercourse or within 32m of a surface water feature / watercourse. The infrastructure associated with the proposed development will avoid the identified surface water features / watercourses where possible, although some structures (such as roads) may occur within a surface water feature / watercourse and/or within 32m of a surface water feature / watercourse. A Surface Water Impact Assessment is being undertaken to assess the impacts of the proposed development on the identified surface water features / watercourses</p>
<p><u>Listing Notice 1: Item 19</u></p> <p><i>“The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse”</i></p>	<p>The proposed development will involve the excavation, removal, infilling, depositing and moving of more than 10 cubic metres (m<sup>3</sup>) of soil, sand, pebbles or rock from some of the identified surface water features / watercourses. Although the layout of the proposed</p>

	<p>development will be designed to avoid the identified surface water features / watercourses as far as possible, some of the internal and/or access roads will need to traverse the identified surface water features / watercourses. In addition, during construction of these roads, soil will need to be removed from some of the identified surface water features / watercourses.</p>
<p><u>Listing Notice 1: Item 24</u>  <i>"The development of a road -                  (ii) with a reserve wider than 13,5 metres, or where no reserve exists where the road is wider than 8 metres"</i></p>	<p>Internal access roads will be required to access the proposed substations, operation and maintenance (O&amp;M) building sites and power line towers. Where required, internal access roads will be constructed.</p> <p><b>This activity is not approved as the width of the internal access roads to be constructed is below the threshold of more than 8 metres. The EAP confirmed that in the email dated 15 April 2021 (uploaded on EDMS)</b></p>
<p><u>Listing Notice 1: Item 27</u>  <i>"The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation"</i></p>	<p>The proposed development includes the clearance of an area of 1 hectares (ha) or more, but less than 20ha of indigenous vegetation. This is not triggered as a result of the proposed power line as it is linear infrastructure. The proposed development involves the construction of two (2) new substations and O&amp;M buildings which will each occupy an area of approximately 4ha (i.e. 8ha in total). All vegetation on the substation and O&amp;M building sites will need to be cleared for construction. Cleared vegetation will amount to an area of up to approximately 8ha.</p>
<p><u>Listing Notice 1: Item 28</u>  <i>"Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian</i></p>	<p>The proposed development site is currently zoned for agricultural land use. The proposed development will result in special zoning being required, as an area</p>

<p><i>purposes or afforestation on or after 01 April 1998 and where such development:</i>  <i>(ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare"</i></p>	<p>greater than 1ha will be transformed into industrial / commercial use.</p>
<p><u>Listing Notice 1: Item 31</u>  <i>"The decommissioning of existing facilities, structures or infrastructure for -</i>  <i>(i) any development and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014"</i></p>	<p>Should the proposed development's Power Purchase Agreement (PPA) not be renewed after 20 years (anticipated operational lifespan of proposed development), the proposed development would need to be decommissioned. This would include the decommissioning of the overhead power line connecting the substations to the national grid.</p> <p><b>This activity is not approved as the proposed development does not have any development and related operation activities. The EAP confirmed that in the email dated 15 April 2021 (uploaded on EDMS).</b></p>
<p><u>Listing Notice 1: Item 48</u>  <i>"The expansion of-</i>  <i>(i) infrastructure or structures where the physical footprint is expanded by 100 square metres or more; where such expansion occurs—</i>  <i>(a) within a watercourse; or</i>  <i>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse"</i></p>	<p>The proposed development will entail the expansion (upgrading) of roads and other infrastructure by 100m<sup>2</sup> or more within a surface water feature / watercourse or within 32m from the edge of a surface water feature / watercourse. Although the layout of the proposed development will be designed to avoid the identified surface water features / watercourses as far as possible, some of the internal and access roads to be upgraded will need to traverse the identified surface water features / watercourses and construction will occur within some of the surface water features / watercourses and/or be within 32m of some of the surface water features / watercourses. A Surface Water Impact Assessment was undertaken to assess the</p>

	<p>impacts of the proposed development on the identified surface water features / watercourses.</p>
<p><u>Listing Notice 1: Item 56</u>  <i>"The widening of a road by more than 6 metres, or the lengthening of a road by more than 1 kilometre—</i>  <i>(i) Where the existing reserve is wider than 13.5 meters, or</i>  <i>(ii) where no reserve exists, where the existing road is wider than 8 metres"</i></p>	<p>Internal access roads will be required to access the substations, operation and maintenance buildings and power line towers. Existing site roads will be used wherever possible, however, where required, internal access roads will be constructed. The existing internal and access roads will thus need to be upgraded by widening them more than 6m, or by lengthening them by more than 1 kilometre (km).</p>
<p><u>Listing Notice 3: Item 4</u>  <i>"The development of a road wider than 4 metres with a reserve less than 13, 5 metres.</i>  <b>i. Western Cape</b>  <i>ii. Areas outside urban areas:</i>  <i>(aa) Areas containing indigenous vegetation"</i></p>	<p>Internal access roads will be required for the development. The proposed power line requires a 31m wide servitude for maintenance purposes. This servitude will be positioned within the assessed power line corridor. Existing site roads will be used wherever possible. However, where required, internal access roads will be constructed and will occur outside an urban area, within areas containing indigenous vegetation.</p>
<p><u>Listing Notice 3: Item 18</u>  <i>"The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre-</i>  <b>g. Northern Cape</b>  <i>ii. Outside urban areas:</i>  <i>(ii) Areas within a watercourse or wetland; or within 100 metres from the edge of a watercourse or wetland;</i>  <b>i. Western Cape</b>  <i>ii. All areas outside urban areas:</i>  <i>(aa) Areas containing indigenous vegetation"</i></p>	<p>Internal access roads will be required. Existing site roads will be used wherever possible. However, where required, internal access roads will be constructed. Existing access roads will thus need to be upgraded. Internal access roads will be widened by more than 4m or lengthened by more than 1km. These roads will occur within the Northern and Western Cape Provinces, outside urban areas. In addition, this widening of the roads will occur within areas containing indigenous vegetation in the Western Cape Province. The proposed development only occurs within Ecological Support Areas (ESA) in the Northern Cape</p>



	Province. The proposed development will also occur within a watercourse and/or within 100m from the edge of a watercourse within the Northern Cape Province. A Terrestrial Ecology Impact Assessment has been undertaken to assess the impacts of the proposed development on indigenous vegetation, as well as the Critical Biodiversity Areas (CBA) and Ecological Support Areas (ESA). In addition, a Surface Water Impact Assessment has been undertaken to assess the impacts of the proposed development on the identified watercourses.
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as described in the Basic Assessment Report (BAR) dated 15 January 2021 at:

**SG 21 Code**

C	0	1	9	0	0	0	0	0	0	0	0	0	1	5	5	0	0	0	0	0
C	0	1	9	0	0	0	0	0	0	0	0	0	1	5	6	0	0	0	0	1
C	0	1	9	0	0	0	0	0	0	0	0	0	1	5	6	0	0	0	0	0
C	0	1	9	0	0	0	0	0	0	0	0	0	1	5	8	0	0	0	0	1
C	0	1	9	0	0	0	0	0	0	0	0	0	1	5	9	0	0	0	0	0
C	0	1	9	0	0	0	0	0	0	0	0	0	1	6	8	0	0	0	0	4
C	0	1	9	0	0	0	0	0	0	0	0	0	1	6	8	0	0	0	1	3
C	0	1	9	0	0	0	0	0	0	0	0	0	1	6	9	0	0	0	0	0
C	0	7	2	0	0	0	0	0	0	0	0	0	1	9	4	0	0	0	0	0
C	0	1	9	0	0	0	0	0	0	0	0	0	2	4	0	0	0	0	0	0
C	0	1	9	0	0	0	0	0	0	0	0	0	2	4	1	0	0	0	0	0
C	0	1	9	0	0	0	0	0	0	0	0	0	2	4	3	0	0	0	0	0

**Coordinates for Kudusberg-Oya Corridor**

Coordinates	Latitude	Longitude
Starting point	32° 52' 6.431"S	20° 21' 51.032"E
Mid-point	32° 52' 22.996"S	20° 17' 13.070"E
End point	32° 54' 24.448"S	20° 12' 28.565"E

**Coordinates for Oya to Kappa Corridor**

Coordinates	Latitude	Longitude
Starting point	32° 54' 24.448"S	20° 12' 28.565"E
Mid-point	33° 0' 51.986"S	20° 6' 19.061"E
End point	33° 6' 29.185"S	20° 0' 40.626"E

**Coordinates of Kudusberg substation**

<b>Coordinates</b>	<b>Latitude</b>	<b>Longitude</b>
<b>Centre point</b>	32° 52' 9.50"S	20° 21' 47.01"E

**Coordinates of Oya substation**

<b>Coordinates</b>	<b>Latitude</b>	<b>Longitude</b>
<b>Centre point</b>	32° 54' 24.448"S	20° 12' 28.565"E

-for the proposed development of the 132kV Oya power line near Matjiesfontein, Western and Northern Cape Provinces, hereafter referred to as "the property".

**The development will comprise the following:**

- Two new substations with 33kV/132kV voltage with a footprint of up to approximately 4ha each inclusive of operation and maintenance buildings and will likely be single storey buildings, however, some components will be higher;
- The step-up substations which will contain transformers for voltage step-up from medium voltage to high voltage. Direct Current (DC) power will be converted into Alternating Current (AC) power in inverters and voltage will be stepped up to medium voltage in inverter transformers;
- One (1) new overhead power line with voltage capacity of up to approximately 132kV; will link Kudusberg Substation to Oya Substation and finally to Kappa Substation, where electricity will be fed into national grid; and
- Internal access roads with width of between approximately 4-8m.

**Technical details of the development:**

<b>Infrastructure</b>	<b>Footprint, dimensions and details</b>
<b>Corridor width</b>	One alternative Kudusberg to Oya power line corridor route of up to 300m for the section from Kudusberg Substation and Oya Substation was assessed and five alternative corridors (Oya to Kappa) of up to 300m in width were assessed. Power Line Corridor Alternative 4 is preferred for the section of the power line from Oya Substation to the existing Kappa substation.
<b>Power line capacity</b>	up to approximately 132kV

<b>Infrastructure</b>	<b>Footprint, dimensions and details</b>
<b>Power line servitude width</b>	Proposed power line requires 31m wide servitude for maintenance purposes. Servitude will be positioned within assessed power line corridors.
<b>Length of the power lines</b>	Approximately 16.6km- Kudusberg to Oya power line corridor route Approximately 32.94km-Oya to Kappa power line corridor route
<b>Height of the towers</b>	Up to 45m. Power line towers (or pylons) will be located at a distance of 200m to 250m apart.  Types of towers considered are both lattice and monopole
<b>Kudusberg Substation</b>	Up to approximately 132kV
<b>Oya Substation</b>	Up to approximately 132kV
<b>Substation footprint inclusive of operation and maintenance building</b>	4ha each
<b>Access roads/ tracks</b>	Internal access roads will be required. Width of the access roads will be between approximately 4-8m.

## Conditions of this Environmental Authorisation

### Scope of authorisation

1. The proposed development of the 132kV Oya power line near Matjiesfontein in Ward 12 of Witzenberg Local Municipality and Ward 3 of Karoo Hoogland Local Municipality in Cape Winelands and Namakwa District Municipalities in the Northern Cape and Western Cape Provinces is approved as per the geographic coordinates cited in the table above.
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 ten (10) 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. Construction must be completed within five (05) years of the commencement of the activity on site.
9. Commencement with one activity listed in terms of this Environmental Authorisation constitutes commencement of all authorised activities.

### **Notification of authorisation and right to appeal**

10. 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.
11. The notification referred to must –
  - 11.1. specify the date on which the authorisation was issued;
  - 11.2. inform the interested and affected party of the appeal procedure provided for in the National Appeal Regulations, 2014;
  - 11.3. advise the interested and affected party that a copy of the authorisation will be furnished on request; and
  - 11.4. give the reasons of the Competent Authority for the decision.

### **Commencement of the activity**

12. The authorised activity shall not commence until the period for the submission of appeals has lapsed as per the National Appeal Regulations, 2014, and no appeal has been lodged against the decision. In terms of Section 43(7), an appeal under Section 43 of the National Environmental Management Act, Act No. 107 of 1998, as amended 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**

13. The site layout plan attached as Appendix 5 of the BAR dated 15 January 2021 is approved.
14. The Environmental Management Programme (EMPr), watercourse rehabilitation and maintenance management plan (dated January 2021 prepared by FEN Consulting (Pty) Ltd submitted as part of the Surface Water specialist study) submitted as part of the BAR dated 15 January 2021 are approved and must be implemented and adhered to.
15. The EMPr must be implemented and strictly enforced during all phases of the project. It shall be seen as a dynamic document and shall be included in all contract documentation for all phases of the development when approved.
16. Changes to the approved EMPr must be submitted in accordance to the EIA Regulations applicable at the time.

17. The Department reserves the right to amend the approved EMPr should any impacts that were not anticipated or covered in the EIAr be discovered.

### **Frequency and process of updating the EMPr**

18. The EMPr must be updated where the findings of the environmental audit reports, contemplated in Condition 28 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.
19. The updated EMPr must contain recommendations to rectify the shortcomings identified in the environmental audit report.
20. The updated EMPr must be submitted to the Department for approval together with the environmental audit report, as per Regulation 34 of the EIA Regulations, 2014 as amended. 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.
21. 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 the EIA Regulations, 2014 as amended. 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.
22. The holder of the authorisation must apply for an amendment of an EMPr, if such amendment is required before an audit is required. The amendment process is prescribed in Regulation 37 of the EIA Regulations, 2014, as amended. The holder of the authorisation must request comments on the proposed amendments to the impact management outcomes of the EMPr or amendments to the closure objectives of the closure plan from potentially interested and affected parties, including the competent authority, by using any of the methods provided for in the Act for a period of at least 30 days.

### **Monitoring**

23. The holder of the authorisation must appoint an experienced 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.
  - 23.1. The ECO must be appointed before commencement of any authorised activities.

- 23.2. Once appointed, the name and contact details of the ECO must be submitted to the *Director: Compliance Monitoring* of the Department.
- 23.3. The ECO must keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
- 23.4. 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**

24. 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.
25. 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.
26. 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 the EIA Regulations, 2014 as amended.
27. 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.
28. The environmental audit reports must be compiled in accordance with Appendix 7 of the EIA Regulations, 2014 as amended 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.
29. 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**

30. 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**

31. 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**

32. 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**

33. No activities will be allowed to encroach into a watercourse without a water use authorisation being in place from the Department of Human Settlement, Water and Sanitation.
34. Vegetation clearing must be limited to the footprint of the proposed development in order to minimise the loss of species of conservation concern.
35. Anti-collision devices such as bird flight diverters must be installed on the entire length of the overhead power line.
36. A permit must be obtained from the relevant nature conservation agency for the removal or destruction of indigenous, protected or endangered plant or animal species.
37. No exotic plants must be used for rehabilitation purposes. Only indigenous plants of the area must be utilised.
38. An integrated waste management approach must be implemented that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste must

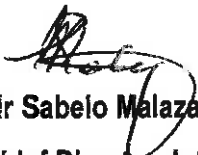


be disposed of at a landfill licensed in terms of Section 20 (b) of the National Environment Management Waste Act, 2008 (Act No.59 of 2008).

### General

39. A copy of this Environmental Authorisation, the audit and compliance monitoring reports, and the approved EMPr, must be made available for inspection and copying-
- 39.1. at the site of the authorised activity;
  - 39.2. to anyone on request; and
  - 39.3. where the holder of the Environmental Authorisation has a website, on such publicly accessible website.
40. 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: 29/04/2021



Mr Sabelo Malaza

Chief Director: Integrated Environmental Authorisations  
Department of Forestry, Fisheries and the Environment

## 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 amended application form 13 November 2020 and an amended application form received on 15 January 2021 as well as the email dated 15 April 2021 with regard to listed activities not triggered by the development.
- b) The information contained in the final BAR dated 15 January 2021.
- c) The comments received from interested and affected parties as included in the BAR dated 15 January 2021.
- d) Mitigation measures as proposed in the BAR and the EMPr.
- e) The information contained in the specialist studies contained within the appendices of the BAR dated 15 January 2021 and as appears below:

### 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 need for the proposed project stems from the provision of electricity to the national grid.
- c) The BAR dated 15 January 2021 identified all legislations and guidelines that have been considered in the preparation of the BAR.
- d) The methodology used in assessing the potential impacts identified in the BAR dated 15 January 2021 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 as amended for public involvement.

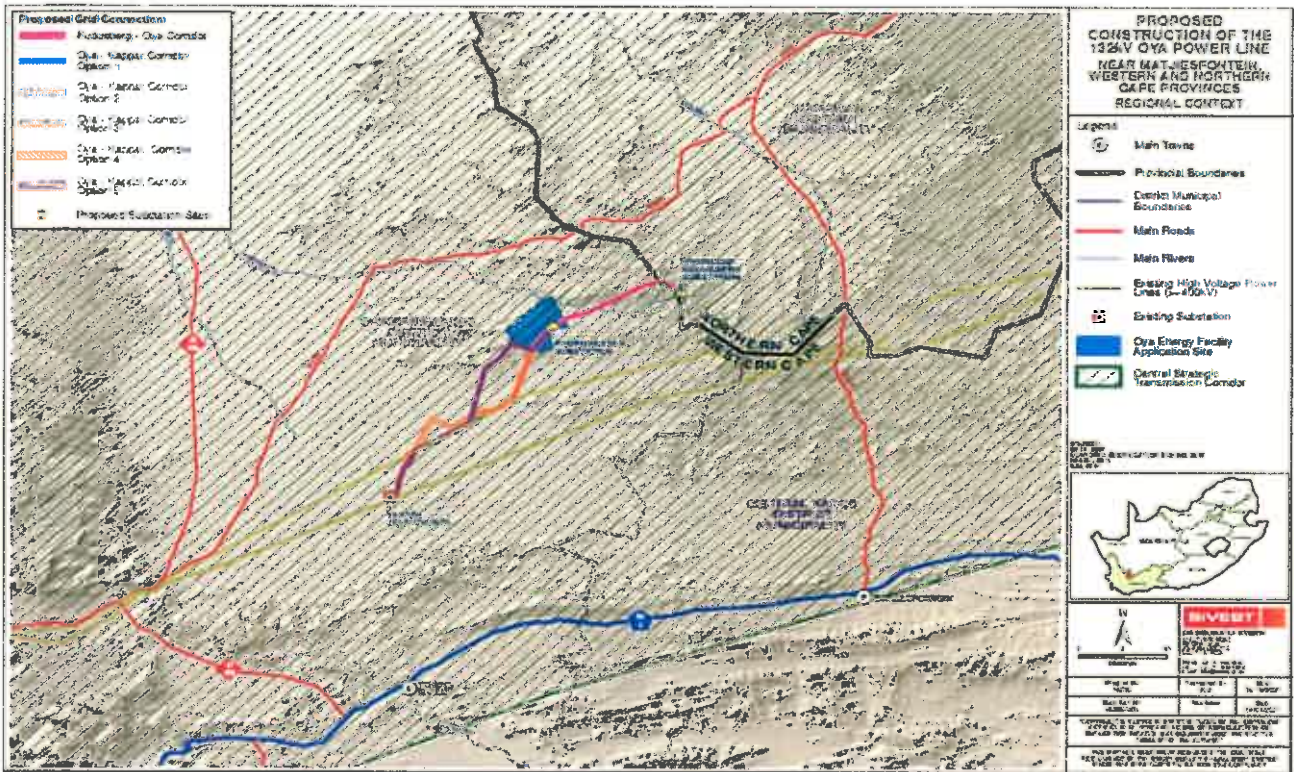
### 3. Findings

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 15 January 2021 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 measures for the pre-construction, construction and rehabilitation phases of the development were proposed and included in the BAR and 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.

## Annexure 2: Locality Plan



## Layout Plan

