

Appendix C6:  
Comments Received

DEFF



# environment, forestry & fisheries

Department:  
Environment, Forestry and Fisheries  
REPUBLIC OF SOUTH AFRICA

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DEA Reference: 14/12/16/3/3/1/2247

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## PER EMAIL

Dear Ms Thomas

### COMMENTS ON THE DRAFT BASIC ASSESSMENT REPORT FOR THE PROPOSED ESTABLISHMENT OF THE 132KV GRID CONNECTION INFRASTRUCTURE FOR THE HYPERION HYBRID FACILITY NEAR KATHU, NORTHERN CAPE PROVINCE

The draft Basic Assessment Report (BAR) dated October 2020 and received by this Department on 27 October 2020, refer.

This letter serves to inform you that the following information must be included in the final BAR:

#### **(a) Listed Activities**

- i. Please ensure that all relevant listed activities are applied for, are specific and can be linked to the development activity or infrastructure as described in the project description. Only activities applicable to the development must be applied for and assessed.
- ii. If the activities applied for in the application form differ from those mentioned in the final BAR, an amended application form must be submitted. Please note that the Department's application form template has been amended and can be downloaded from the following link <https://www.environment.gov.za/documents/forms>.
- iii. It is imperative that the relevant authorities are continuously involved throughout the basic assessment process as the development property possibly falls within geographically designated areas in terms of numerous GN R. 985 Activities. Written comments must be obtained from the relevant authorities and submitted to this Department. In addition, a graphical representation of the proposed development within the respective geographical areas must be provided.

#### **(b) Layout & Sensitivity Maps**

- i. The final report must include an environmental sensitivity map indicating environmental sensitive areas, buffer areas and features identified during the assessment process.
- ii. A copy of the final layout map must be submitted with the final report and all available biodiversity information must be used in the finalisation of the layout map.
- iii. Existing infrastructure must be used as far as possible and the layout map must indicate the following:
  - a) All supporting onsite infrastructure;

- b) The location of sensitive environmental features on site e.g. CBAs, heritage sites, wetlands, drainage lines etc. that will be affected;
- c) Buffer areas; and
- d) All "no-go" areas.

**(c) Alternatives**

- i. Please note that you are required to provide a full description of the process followed to reach the proposed preferred alternative within the site, in terms of Appendix 1(3)(1)(h) of the EIA Regulations 2014, as amended, including the following content:
  - a) details of all the alternatives considered;
  - b) details of the public participation process undertaken in terms of regulation 41 of the Regulations, including copies of the supporting documents and inputs;
  - c) a summary of the issues raised by interested and affected parties, and an indication of the manner in which the issues were incorporated, or the reasons for not including them;
  - d) the environmental attributes associated with the alternatives focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;
  - e) the impacts and risks identified for each alternative, including the nature, significance, consequence, extent, duration and probability of the impacts, including the degree to which these impacts—
    - f) (aa) can be reversed;
    - g) (bb) may cause irreplaceable loss of resources; and
    - h) (cc) can be avoided, managed or mitigated;
  - i) the methodology used in determining and ranking the nature, significance, consequences, extent, duration and probability of potential environmental impacts and risks associated with the alternatives;
  - j) positive and negative impacts that the proposed activity and alternatives will have on the environment and on the community that may be affected focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;
  - k) the possible mitigation measures that could be applied and level of residual risk;
  - l) the outcome of the site selection matrix;
  - m) if no alternatives, including alternative locations for the activity were investigated, the motivation for not considering such; and
  - n) a concluding statement indicating the preferred alternatives, including preferred location of the activity.
- ii. Written proof of an investigation and motivation if no reasonable or feasible alternatives exist in terms of Appendix 1.

**(d) Policy and legislative context**

- (i) The department has noted that the legislative context has been identified and included in the report but has not been linked to the project. In the activity description, reference is made to the property being in a protected area but NEMPAA is not included in the identified policies and legislation and how it links to the project. Therefore, you are required to include a description of the policy and legislative context within which the development is proposed including—
  - a) an identification of all legislation, policies, plans, guidelines, spatial tools, municipal development planning frameworks, and instruments that are applicable to this activity and have been considered in the preparation of the report; and
  - b) how the proposed activity complies with and responds to the legislation and policy context, plans, guidelines, tools frameworks, and instruments.

**(e) Specialist Declaration of Interest**

- (i) Specialist Declaration of Interest forms must be attached to the final BAR. You are therefore requested to submit original signed Specialist Declaration of Interest forms for each specialist study conducted. The forms are available on Department's website (please use the Department's template).



**(f) Specialist Assessments**

- i. Specialist studies to be conducted must provide a detailed description of their methodology, as well as all other associated infrastructures that they have assessed and are recommending for the authorisation.
- ii. The specialist studies must also provide a detailed description of all limitations to their studies. All specialist studies must be conducted in the right season and providing that as a limitation, will not be accepted.
- iii. Should the appointed specialists specify contradicting recommendations, the EAP must clearly indicate the most reasonable recommendation and substantiate this with defensible reasons and where necessary, include further expertise advice.

**(g) Undertaking of an Oath**

- i. The Department informs you that the application form and the Basic Assessment Report must include an undertaking under oath or affirmation by the EAP. Please note that the final BAR must also have an undertaking under oath/ affirmation by the EAP.
- ii. Based on the above, you are therefore required to include an undertaking under oath or affirmation by the EAP (administered by a Commissioner of Oaths) as per Appendix 1(3)(r) of the NEMA EIA Regulations, 2014, as amended, which states that the BAR must include:  
*"an undertaking under oath or affirmation by the EAP in relation to:*
  - a) *the correctness of the information provided in the reports;*
  - b) *the inclusion of comments and inputs from stakeholders and I&APs;*
  - c) *the inclusion of inputs and recommendations from the specialist reports where relevant; and*
  - d) *any information provided by the EAP to interested and affected parties and any responses by the EAP to comments or inputs made by interested and affected parties".*

**(h) Details and Expertise of the EAP**

- i. You are required to include the details and expertise of the EAP in the BAR, including a curriculum vitae, in order to comply with the requirements of Appendix 1(3)(1)(a) of the NEMA EIA Regulations, 2014, as amended.

**(i) Public Participation Process**

- i. The following information must be submitted with the final BAR:
  - a) A list of registered interested and affected parties as per Regulation 42 of the NEMA EIA Regulations, 2014, as amended;
  - b) Copies of all comments received during the draft BAR comment period; and
  - c) A comment and response report which contains all comments received and responses provided to all comments and issues raised during the public participation process for the draft BAR. Please note that comments received from this Department must also form part of the comment and response report.
- ii. Please ensure that all issues raised and comments received during the circulation of the draft BAR from registered I&APs and organs of state which have jurisdiction (including this Department's Biodiversity Section) in respect of the proposed activity are adequately addressed in the final BAR.
- iii. Proof of correspondence with the various stakeholders must be included in the final BAR. Should you be unable to obtain comments, proof should be submitted to the Department of the attempts that were made to obtain comments.
- iv. The Public Participation Process must be conducted in terms of Regulation 39, 40, 41, 42, 43 & 44 of the EIA Regulations 2014, as amended.

**(j) Environmental Management Programme**

- (i) The EMPr must also include the following:
  - a) It is drawn to your attention that for substation and overhead electricity transmission and distribution infrastructure, when such facilities trigger activity 11 or 47 of the Environmental Impact Assessment Regulations Listing Notice 1 of 2014, as amended, and any other listed and specified activities necessary for the realisation of such facilities, the generic Environmental Management Programme,

contemplated in Regulations 19(4) must be used and submitted with the final report over and above the EMPr for the facility.

- b) There needs to be an EMPr for the facility, the onsite substation as well as the overhead line.
- c) Further to the above, you are required to comply with the content of the EMPr in terms of Appendix 4 of the Environmental Impact Assessment Regulations, 2014, as amended.
- d) Please be informed that the following content must be incorporated within the EMPr's as indicated in Appendix 4 of the EIA Regulations 2014, as amended:
  - (i) Details of the EAP who prepared the EMPr; and the expertise of that EAP to prepare an EMPr, including a curriculum vitae.
  - (ii) A map at an appropriate scale which superimposes the proposed activity, its associated structures, and infrastructure on the environmental sensitivities of the preferred site, indicating any areas that should be avoided, including buffers.
  - (iii) A description of the impact management outcomes, including management statements, identifying the impacts and risks that need to be avoided, managed and mitigated as identified through the environmental impact assessment process for all phases of the development including —
    - (a) Planning and design;
    - (b) Pre-construction activities;
    - (c) Construction activities;
    - (d) Rehabilitation of the environment after construction and where applicable post closure; and
    - (e) Where relevant, operation activities.
  - (iv) A description of proposed impact management actions, identifying the manner in which the impact management outcomes contemplated in paragraph (d) of Appendix 4 of the EIA Regulations 2014, as amended, will be achieved, and must, where applicable, include actions to —
  - (v) Avoid, modify, remedy, control or stop any action, activity or process which causes pollution or environmental degradation;
  - (vi) Comply with any prescribed environmental management standards or practices;
  - (vii) Comply with any applicable provisions of the Act regarding closure, where applicable; and
  - (viii) Comply with any provisions of the Act regarding financial provision for rehabilitation, where applicable.
  - (ix) The method of monitoring the implementation of the impact management actions contemplated in paragraph (f) of Appendix 4 of the EIA Regulations 2014, as amended.
  - (x) The frequency of monitoring the implementation of the impact management actions contemplated in paragraph (f) of Appendix 4 of the EIA Regulations 2014, as amended.
  - (xi) An indication of the persons who will be responsible for the implementation of the impact management actions.
  - (xii) The time periods within which the impact management actions contemplated in paragraph (f) of Appendix 4 of the EIA Regulations 2014, as amended, must be implemented.
  - (xiii) The mechanism for monitoring compliance with the impact management actions contemplated in paragraph (f) of Appendix 4 of the EIA Regulations 2014, as amended.
  - (xiv) A program for reporting on compliance, taking into account the requirements as prescribed by the Regulations.

**(k) Environmental Impact Statement**

- (i) It is noted that an environmental impact statement is not included in the draft BAR, therefore you are kindly requested to include an environmental impact statement which contains —
  - a) a summary of the key findings of the environmental impact assessment;
  - b) a map at an appropriate scale which superimposes the proposed activity and its associated structures and infrastructure on the environmental sensitivities of the preferred site indicating any areas that should be avoided, including buffers; and
  - c) a summary of the positive and negative impacts and risks of the proposed activity and identified alternatives.

Please also ensure that the final BAR includes the period for which the Environmental Authorisation is required and the date on which the activity will be concluded as per Appendix 1(3)(1)(q) of the NEMA EIA Regulations, 2014, as amended.

You are further reminded to comply with Regulation 19(1)(a) of the NEMA EIA Regulations, 2014, as amended, which states that: *"Where basic assessment must be applied to an application, the applicant must, within 90 days of receipt of the application by the competent authority, submit to the competent authority -*

*(a) a basic assessment report, inclusive of specialist reports, an EMPr, and where applicable a closure plan, which have been subjected to a public participation process of at least 30 days and which reflects the incorporation of comments received, including any comments of the competent authority."*

Should there be significant changes or new information that has been added to the BAR or EMPr which changes or information was not contained in the reports or plans consulted on during the initial public participation process, you are required to comply with Regulation 19(b) of the NEMA EIA Regulations, 2014, as amended, which states: *"the applicant must, within 90 days of receipt of the application by the competent authority, submit to the competent authority – (b) a notification in writing that the basic assessment report, inclusive of specialist reports an EMPr, and where applicable, a closure plan, will be submitted within 140 days of receipt of the application by the competent authority, as significant changes have been made or significant new information has been added to the basic assessment report or EMPr or, where applicable, a closure plan, which changes or information was not contained in the reports or plans consulted on during the initial public participation process contemplated in subregulation (1)(a) and that the revised reports or, EMPr or, where applicable, a closure plan will be subjected to another public participation process of at least 30 days"*.

Should you fail to meet any of the timeframes stipulated in Regulation 19 of the NEMA EIA Regulations, 2014, as amended, your application will lapse.

You are hereby reminded of Section 24F of the National Environmental Management Act, Act No. 107 of 1998, as amended, that no activity may commence prior to an Environmental Authorisation being granted by the Department.

Yours sincerely



**Mr Sabelo Malaza**  
**Chief Director: Integrated Environmental Authorisations**  
**Department of Environment, Forestry and Fisheries**  
**Letter signed by: Ms Millicent Solomons**  
**Designation: Director: Priority Infrastructure Projects**  
**Date: 11/11/2020.**

|     |                    |                                 |  |
|-----|--------------------|---------------------------------|--|
| cc: | Matteo Brambilla   | Hyperion Solar Hybrid (Pty) Ltd | E-mail: m.michalowska@redrocket.energy |
|     | Bryan Fisher       | NC: DAEARDLR                    | E-mail: BFisher@ncpp.gov.za            |
|     | Thusoeng Itumeleng | Gamagara Local Municipality     | E-mail: clementi@gamagara.gov.za       |

SAHRA



Our Ref:



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CaseID: 15681

Date: Friday November 20, 2020  
Page No: 1

## Interim Comment

**In terms of Section 38(3), 38(8) of the National Heritage Resources Act (Act 25 of 1999)**

Attention: Hyperion Solar Development (Pty) Ltd

**The development of a 132kV overhead power line to connect the Hyperion Hybrid facility (i.e. The authorised Hyperion 1 & 2 PV SEFs and thermal dual fuel facility) to the national grid via the existing Eskom Kalbas substation. The proposed grid connection infrastructure is approximately 8km long and includes an assessment corridor of 300m.**

Savannah Environmental (Pty) Ltd has been appointed by Hyperion Solar Development (Pty) Ltd to conduct an Environmental Authorisation (EA) Application for the proposed establishment of a 132kV Grid Connection for the Hyperion Hybrid Facility, near Kathu, Northern Cape Province

A draft Basic Assessment Report (DBAR) has been submitted in terms of the National Environmental Management Act, 1998 (NEMA) and the 2017 NEMA Environmental Impact Assessment (EIA) Regulations. The proposed infrastructure will include an 8 km 132kV powerline located within a 300 m wide corridor, laydown areas and a servitude road.

ASHA Consulting (Pty) Ltd has been appointed to provide heritage specialist input as required by section 24(4)b(iii) of NEMA and section 38(8) of the National Heritage Resources Act, Act 25 of 1999 (NHRA).

*Orton, J. 2020. Heritage Impact Assessment: Proposed 132 kV Power Line over Farms 432/Rem, 464/1 & 465/Rem for the Hyperion Hybrid Facility, north of Kathu, Kuruman Magisterial District, Northern Cape.*

It is noted that no physical survey was conducted as part of this HIA, however it is noted that the location of the pylons has not yet been finalised. No heritage resources were previously identified within the proposed footprint. There is a small chance of uncovering fossils from the Kalahari Group sediments.

Recommendations provided in the report include the following:

- An archaeologist must be appointed to conduct inspections of the pylon foundations;
- The ECO must examine the final alignment prior to the start of construction to determine whether any obvious graves might be present;

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- The ECO must monitor the construction phase work for the presence of heritage materials (fossils, stone artefacts, graves); and
- If any palaeontological material, archaeological material or human burials are uncovered during the course of development then work in the immediate area should be halted. The find would need to be reported to the heritage authorities and may require inspection by a palaeontologist or archaeologist. Such heritage is the property of the state and may require excavation and curation in an approved institution.

## Interim Comment

The SAHRA Archaeological, Palaeontological and Meteorites (APM) requests that a desktop Palaeontological Assessment must be conducted by a qualified palaeontologist as the proposed powerline route is located within areas of moderate to high sensitivity for palaeontological resources as per the SAHRIS PalaeoSensitivity map.

The applicant is advised to extend the BAR process in terms of section 19(1)b of the NEMA EIA regulations in order to comply with this comment.

Further comments will be issued upon receipt of the above requested documents.

Should you have any further queries, please contact the designated official using the case number quoted above in the case header.

Yours faithfully

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Natasha Higgitt  
Heritage Officer  
South African Heritage Resources Agency

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Phillip Hine  
Manager: Archaeology, Palaeontology and Meteorites Unit  
South African Heritage Resources Agency

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**ADMIN:**  
Direct URL to case: <http://www.sahra.org.za/node/543300>  
(DEA, Ref: )