

APPEALS PROCEDURE IN TERMS OF CHAPTER 7 OF THE NEMA EIA REGULATIONS, 2010 (THE REGULATIONS) AS PER GN R. 543 OF 2010 TO BE FOLLOWED BY THE APPLICANT AND INTERESTED AND AFFECTED PARTIES UPON RECEIPT OF NOTIFICATION OF AN ENVIRONMENTAL AUTHORISATION (EA)

APPLICANT	INTERESTED AND AFFECTED PARTIES (IAPs)
1. Receive EA from the relevant Competent Authority (the Department of Environmental Affairs [DEA]).	1. Receive EA from Applicant/Consultant.
2. Within 12 days of date of the EA notify all IAPs of the EA and draw their attention to their right to appeal against the EA in terms of Chapter 7 of the Regulations.	2. N/A.
3. If you want to appeal against the EA, submit a notice of intention to appeal within 20 days of the date of the EA with the Minister of Water and Environmental Affairs (the Minister).	3. If you want to appeal against the EA, submit a notice of intention to appeal within 20 days of the date of the EA with the Minister of Water and Environmental Affairs (the Minister).
4. After having submitted your notice of intention to appeal to the Minister, provide each registered IAP with a copy of the notice of intention to appeal within 10 days of lodging the notice.	4. After having submitted your notice of intention to appeal to the Minister, provide the applicant with a copy of the notice of intention to appeal within 10 days of lodging the notice.
5. The Applicant must also serve on each IAP: <ul style="list-style-type: none"> • a notice indicating where and for what period the appeal submission will be available for inspection. 	5. Appellant must also serve on the Applicant within 10 days of lodging the notice, <ul style="list-style-type: none"> • a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.
6. The appeal must be submitted in writing to the Minister within 30 days after the lapsing of the period of 20 days provided for the lodging of the notice of intention to appeal.	6. The appeal must be submitted to the Minister within 30 days after the lapsing of the period of 20 days provided for the lodging of the notice of intention to appeal.
7. Any IAP who received a notice of intention to appeal may submit a responding statement to that appeal to the Minister within 30 days from the date that the appeal submission was lodged with the Minister.	7. An Applicant who received notice of intention to appeal may submit a responding statement to the appeal to the Minister within 30 days from the date that the appeal submission was lodged with the Minister.

NOTES:

1. An appeal against a decision must be lodged with:-

- a) the Minister of Water and Environmental Affairs if the decision was issued by the Director- General of the Department of Environmental Affairs (or another official) acting in his/ her capacity as the delegated Competent Authority;
- b) the Minister of Justice and Constitutional Development if the applicant is the Department of Water Affairs and the decision was issued by the Director- General of the Department of Environmental Affairs (or another official) acting in his/ her capacity as the delegated Competent Authority;

2. An appeal lodged with:-

- a) the Minister of Water and Environmental Affairs must be submitted to the Department of Environmental Affairs;
- b) the Minister of Justice and Constitutional Development must be submitted to the Department of Environmental Affairs;

3. An appeal must be:-

- a) submitted in writing;
- b) accompanied by:
 - a statement setting out the grounds of appeal;
 - supporting documentation which is referred to in the appeal; and
 - a statement that the appellant has complied with regulation 62 (2) or (3) together with copies of the notices referred to in regulation 62.



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Environmental Authorisation

In terms of regulation 36 of the Environmental Impact Assessment Regulations, 2010

Tourism development in Goegap Nature Reserve, Northern Cape

(Nama- khoi Local Municipality)

Authorisation register number:	<i>12/12/20/2414/1</i>
NEAS reference number:	<i>DEA/EIA/0000512/2011</i>
Last amended:	<i>First issue</i>
Holder of authorisation:	<i>Northern Cape Provincial Department of Environment and Nature Conservation</i>
Location of activity:	<i>Northern Cape: Within Nama- khoi Local Municipality.</i>

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

Decision

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

Non-compliance with a condition of this authorisation may result in criminal prosecution or other actions provided for in the National Environmental Management Act, 1998 and the EIA regulations.

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, 1998 (Act 107 of 1998) and the Environmental Impact Assessment Regulations, 2010 the Department hereby authorises –

NORTHERN CAPE PROVINCIAL DEPARTMENT OF ENVIRONMENT AND NATURE CONSERVATION

with the following contact details –

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to undertake the following activities (hereafter referred to as "the activity") indicated in Listing Notices 1 and 3 (GN R. 544, 546);

Listed activities	Activity/Project description
<p><u>GN R. 544 Item 23.</u></p> <p>The transformation of undeveloped, vacant or derelict land to – (ii) residential, retail, commercial, recreational, industrial or institutional use, outside an urban area and where the total area to be transformed is bigger than 1 hectare but less than 20 hectares.</p>	<p>The construction of new facilities will require transformation of undeveloped land.</p>
<p><u>GN R. 544 Item 24.</u></p> <p>The transformation of land bigger than 1000 square metres in size, to residential, retail, commercial, industrial or institutional use, where, at the time of the coming into effect of this Schedule or thereafter such land was zoned open space, conservation or had an equivalent zoning.</p>	<p>The construction of new facilities will require transformation of undeveloped land within a nature reserve</p>
<p><u>GN R. 546 Item 5(a), (c), (e) (i):</u></p> <p>The construction of resorts, lodges or other tourism accommodation facilities that sleep less than 15 people. (a) A protected area identified in terms of the NEMPAA. (c) Outside urban areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve.</p> <p>In Northern Cape i. Outside urban areas,</p>	<p>Two new family camps, A new group camp with ablation facilities (8-sleeper) A new trails camp hut with ablation facilities (2 units)</p>
<p><u>GN R. 546 Item 6 (a) ii:</u></p> <p>The construction of resorts, lodges or other tourism accommodation (a) In Northern Cape provinces: ii. Outside urban areas,</p>	<p>Two new family camps, A new group camp with ablation facilities (8-sleeper) A new trails camp hut with</p>

Listed activities	Activity/Project description
	ablution facilities (2 units)
<p><u>GN R. 546 Item 7 (a) ii:</u> The conversion of existing structures to resorts, lodges or tourism accommodation facilities that sleep 15 people or more (a) In Northern Cape province: ii. Outside urban areas,</p>	<p>The demolition of the existing guesthouse, the trails camp hut, the guardhouse, the group camp, the administration offices and staff accommodation;</p>
<p><u>GN R. 546 Item 12 (a), (b):</u> The clearance of an area of 300 square metres or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation. (a) Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004; (b) Within critical biodiversity areas identified in bioregional plans;</p>	<p>The clearance will take place within the Goegap Nature Reserve</p>
<p><u>GN R. 546 Item 13 (a)(c, ii):</u> The clearance of an area of 1 hectare or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation, Critical biodiversity areas and ecological support areas as identified in systematic biodiversity plans adopted by the competent authority. In Northern Cape province ii. Outside urban areas:</p>	<p>The construction of the tourism facilities will require area with indigenous vegetation to be cleared</p>
<p><u>GN R. 546 Item 14 (a) i:</u> The clearance of an area of 5 hectares or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation.</p>	<p>Although there are some disturbances the site constitutes some natural vegetation.</p>

Listed activities	Activity/Project description
<p><u>GN R. 546 Item 18 (a) ii:</u> The expansion of a resort, lodge, hotel and tourism or hospitality facilities where the development footprint will be expanded. In Northern Cape provinces: ii. Outside urban areas</p>	<p>A tourism building, adjacent to the guardhouse, Information centre, curio shop, public ablution facilities and a parking area,</p>
<p><u>GN R. 546 Item 19 (a) ii:</u> The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre. In Northern Cape provinces: ii. Outside urban areas,</p>	<p>Reconfiguration of the entrance gate with associated parking including paving</p>

as described in the Basic Assessment Report (BAR) dated July 2012 at:

Preferred sites	Latitude	Longitude
Trail Camp Alternative S1 ²	29° 37,775'	18° 03,570'
Conference Venue Alternative S1:	29° 39,912'	17° 59,928'
Family Camp 1 Alternative S1:	29° 40,975'	17° 56,968'
Family Camp 2 Alternative S1:	29° 40,931'	17° 57,017'
Group Camp Site Alternative 2 S1:	29° 41,112'	17° 56,704'
Guard House and Tourism Building Alternative S1:	29° 41,164'	17° 56,911'

- for the tourism development in the Goegap Nature Reserve, Northern Cape, hereafter referred to as "the property".

The infrastructure associated with this facility includes:

- a. A guardhouse,
- b. Reconfiguration of the entrance gate with associated parking including paving and ablution facilities,
- c. A tourism building, adjacent to the guardhouse,
- d. Information centre, curio shop, public ablution facilities and a parking area,
- e. Two new family camps,
- f. A new group camp with ablution facilities (8-sleeper);
- g. A new trails camp hut with ablution facilities (2 units);
- h. A conference venue;
- i. The reticulation of the required electricity and water supplies as well as all other engineering services; and
- j. The implementation of storm water management structures.

Conditions of this Environmental Authorisation

Scope of authorisation

1. The preferred sites:

preferred sites
Trail Camp Alternative S1 ²
Conference Venue Alternative S1:
Family Camp 1 Alternative S1:
Family Camp 2 Alternative S1:
Group Camp Site Alternative 2 S1:
Guard House and Tourism Building Alternative S1:

- for the tourism development in the Goegap Nature Reserve, Northern Cape Province is hereby approved.

2. Authorisation of the activity is subject to the conditions contained in this 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 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 authorisation in terms of the regulations.
6. This activity must commence within a period of three (3) years from the date of issue of this 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.
7. Commencement with one activity listed in terms of this authorisation constitutes commencement of all authorised activities.
8. The holder of an environmental authorisation must notify the competent authority of any alienation, transfer and change of ownership rights in the property on which the activity is to take place.

Notification of authorisation and right to appeal

9. The holder of the authorisation must notify every registered interested and affected party, in writing and within 12 (twelve) calendar days of the date of this environmental authorisation, of the decision to authorise the activity.
10. The notification referred to must –
 - 10.1. specify the date on which the authorisation was issued;
 - 10.2. inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the Environmental Impact Assessment Regulations, 2010;
 - 10.3. advise the interested and affected party that a copy of the authorisation will be furnished on request; and give the reasons of the competent authority for the decision.
11. The holder of the authorisation must publish a notice –
 - 11.1. informing interested and affected parties of the decision;
 - 11.2. informing interested and affected parties where the decision can be accessed; and

- 11.3. drawing the attention of interested and affected parties to the fact that an appeal may be lodged against this decision in the newspaper(s) contemplated and used in terms of regulation 54(2)(c) and (d) and which newspaper was used for the placing of advertisements as part of the public participation process.

Management of the activity

12. The Environmental Management Programme (EMPr) submitted as part of the Application for EA is hereby approved. This EMPr must be implemented and adhered to.

Monitoring

13. The applicant must appoint a suitably experienced independent Environmental Control Officer (ECO) for the construction phase of the development that will have the responsibility to ensure that the mitigation/rehabilitation measures and recommendations referred to in this authorisation are implemented and to ensure compliance with the provisions of the EMPr.
 - 13.1. The ECO shall be appointed before commencement of any authorised activities.
 - 13.2. Once appointed, the name and contact details of the ECO must be submitted to the Director: Compliance Monitoring of the Department.
 - 13.3. The ECO shall keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
 - 13.4. The ECO shall remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is ready for operation.
 - 13.5. 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.

Recording and reporting to the Department

14. All documentation e.g. audit/monitoring/compliance reports and notifications, required to be submitted to the Department in terms of this authorisation, must be submitted to the *Director: Compliance Monitoring* at the Department.

15. The holder of the authorisation must submit an environmental audit report to the Department within 30 days of completion of the construction phase (i.e. within 30 days of site handover) and within 30 days of completion of rehabilitation activities.
16. The environmental audit report 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 EMPr.
17. 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.

Commencement of the activity

18. The authorised activity shall not commence within twenty (20) days of the date of signature of the authorisation.
19. An appeal under section 43 of the National Environmental Management Act (NEMA), Act 107 of 1998 (as amended), does not suspend an environmental authorisation or exemption, or any provisions or conditions attached thereto, or any directive, unless the Minister, MEC or delegated organ of state directs otherwise.
20. Should you be notified by the Minister of a suspension of the authorisation pending appeal procedures, you may not commence with the activity until such time that the Minister allows you to commence with such an activity in writing.

Notification to authorities

21. Fourteen (14) days written notice must be given to the Department that the activity will commence. 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. This notification period may coincide with the notice of intent to appeal period.

Operation of the activity

22. Fourteen (14) days written notice must be given to the Department that the activity operational phase will commence.

Site closure and decommissioning

23. Should the activity ever cease or become redundant, the applicant shall 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

24. The applicant must ensure that construction activities are limited to normal working hours (07h00-17h30, Monday to Saturday) to reduce the noise impact in the area.
25. An Environmental Control Officer (ECO) should be present for the site preparation and initial clearing activities to ensure the correct demarcation of no-go areas, facilitate environmental induction with construction staff and supervise any flora relocation and faunal rescue activities that may need to take place during the site clearing.
26. Any listed fauna directly threatened by the construction activities should be removed to a safe location by the ECO.
27. The applicant must ensure that a protected species *Acacia erioloba* (camel thorn) is avoided by the development. Should this be unavoidable, DAFF should be approached for permitting.
28. Any large invertebrate fauna disturbed by the construction activities should be removed or allowed to move to safety.
29. Vegetation clearing must be kept at the demarcated and development footprint. Mitigation measures must be implemented to reduce the risk of erosion and the invasion of alien species.
30. The applicant is required to inform the Northern Cape Department of Environment and Nature Conservation and this Department should the removal of medicinal plants and "data deficient" plant species be required.
31. A permit must be obtained from the relevant nature conservation agency for the removal or destruction of indigenous protected and endangered plant and animal species.
32. Copies of permits in respect of 31 above required must be submitted to the Department for record keeping.
33. Any extensive cleared areas that are no longer or not required for construction activities should be re-seeded with locally-sourced seed of suitable species. Bare areas can also be packed with brush removed from other parts of the site, to encourage natural vegetation regeneration and limit erosion.

34. All types of soil disturbances occurring during the construction phase must be kept to a demarcated/ development area. All areas to be cleared should be clearly marked.
35. No construction vehicles should be allowed to drive around the veld. All construction vehicles should remain on properly demarcated roads.
36. Sensitive environments such as drainage lines and rocky outcrops should be avoided and development footprints should be restricted to the low impact areas identified
37. One site or construction camp should be established at an area used for this purpose previously and should there not be any such area, a flat area well away from the drainage lines and already disturbed should be chosen
38. Any expansion or relocation of the car park area should be appropriately located within the areas of low impact
39. The applicant must ensure that the soil is stabilised during construction and any signs of erosion be addressed immediately.
40. Topsoil and vegetation around the site must be rehabilitated after construction.
41. The applicant must ensure that soils is stabilised and soil cover is established immediately when the rehabilitation phase commence after construction completes
42. No exotic plants may be used for rehabilitation purposes. Only indigenous plants of the area may be utilised.
43. The applicant must maintain access and internal roads and keep them in good condition to prevent detours due to bad road conditions.
44. The whole development area should have an alien eradication as part of its operational plan.
45. Buildings and similar structures must be in keeping with regional planning policy documents, especially the principles of critical regionalism, namely sense of place, sense of history, sense of nature, sense of craft and sense of limits.
46. Bird flappers and diverters on any overhead power evacuation lines should be installed and insulation of the live components to avoid electrocution of birds and any other avifaunal species must be implemented.
47. Construction must include appropriate design measures that allow surface and subsurface movement of water along drainage lines so as not to impede natural surface and subsurface flows. Drainage measures must promote the dissipation of storm water run-off.
48. Should archaeological sites or graves be exposed during construction work, it must immediately be reported to a heritage practitioner so that an investigation and evaluation of the finds can be made and reported to the Provincial Heritage Agency.
49. The use and disposal of potential contaminants or hazardous materials must be strictly controlled.

50. The applicant must ensure that the general and construction waste is appropriately disposed of i.e. taken to the nearest landfill.
51. 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 shall be disposed of at a landfill licensed in terms of section 20 (b) of the National Environment Management Waste Act, 2008 (Act 59 of 2008).

General

52. A copy of this authorisation and the approved EMPr must be kept at the property where the activity/ will be undertaken. The authorisation and approved EMPr must be produced to any authorised official of the Department who requests to see it and must be made available for inspection by any employee or agent of the holder of the authorisation who works or undertakes work at the property.
53. The holder of the authorisation must notify both the *Director: Integrated Environmental Authorisations* and the *Director: Compliance Monitoring* at the Department, in writing and within 48 (forty eight) hours, if any condition of this authorisation cannot be or is not adhered to. Any notification in terms of this condition must be accompanied by reasons for the non-compliance.
54. 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 applicant or his 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 applicant 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: 10 October 2012



Mr Mark Gordon

**Chief Director: Integrated Environmental Authorisations
Department of Environmental Affairs**

Annexure 1: Reasons for Decision

1. Information considered in making the decision

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

- a) The information contained in the BAR dated July 2012.
- b) The comments received from Telkom, Namakwa District Municipality, SANRAL, Department of Environment and Nature Conservation, Northern Cape Department of Roads and Public Works SANRAL TELKOM, DAFF and interested and affected parties as included in the BAR dated July 2012.
- c) Mitigation measures as proposed in the BAR dated July 2012 respectively and the EMPr;
- d) The information contained in the specialist studies contained within Appendix D of the BAR; and
- e) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998).

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 means evacuation of additional power into the Eskom grid to improve the stability of the grid for the immediate area, assist the government in achieving the goal of 17GW renewable energy and Job opportunities, albeit limited, will be created during the construction and operation of the proposed facility.
- c) The BAR dated July 2012 identified all legislation and guidelines that have been considered in the preparation of the BAR dated July 2012.
- d) The methodology used in assessing the potential impacts identified in the BAR July 2012 respectively 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, 2010 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 July 2012 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) The information contained in the BAR dated July 2012 is accurate and credible.
- e) 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 process.

In view of the above, the Department is satisfied that, subject to compliance with the conditions contained in the environmental authorisation, the proposed activity 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 proposed activity can be mitigated to acceptable levels. The application is accordingly granted.