

Holland & Associates



Environmental Consultants

Impact Assessments - Environmental Management Programs - Compliance Monitoring - Process Review

22 February 2016

Dear Interested and/or Affected Party

APPLICATION FOR AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION FOR THE PROPOSED WIND ENERGY FACILITY SITUATED ON THE EASTERN PLATEAU (SOUTH) NEAR DE AAR, NORTHERN CAPE PROVINCE: NOTIFICATION OF DECISION (DEA REFERENCE NUMBER: 12/12/20/2463/1/AM3)

Our correspondence of 31 July 2015 regarding the application for amendment of the Environmental Authorisation ("EA") issued on 1 March 2013 (as amended¹) for the proposed wind energy facility (WEF) situated on the Eastern plateau (south) near De Aar in the Northern Cape Province refers.

As outlined in our correspondence of 31 July 2015, the proposed amendments included: an amendment of the project description (i.e. increasing the wind turbine hub heights from 100m to 120m; increasing the rotor diameters from 120m to a range between 100m and 160m; increasing the generation size of the turbines from a range of 1.5MW - 2.5MW to encompass a range of 2.3MW - 4.0MW; amendment to the foundation size of the turbines); and the correction of a typographical error in the EA.

This letter serves to notify all registered Interested and Affected Parties (I&APs) of:

- (1) The decision by the Department of Environmental Affairs (DEA) in respect of the application for amendment of the EA;
- (2) The appeal process provided for in terms of the National Environmental Management Act (NEMA) (No. 107 of 1998) read with the Environmental Impact Assessment (EIA) Regulations (2014) and National Appeal Regulations.

¹ The Environmental Authorisation (EA) was issued on 1 March 2013. An EA amendment application was later submitted to DEA to change the Special Purpose Vehicle (SPV) name from "Mulilo Renewable Energy (Pty) Ltd" to "Longyuan Mulilo De Aar 2 South (Pty) Ltd" in May 2013. This amendment to the EA was granted by DEA on 21 May 2013. In July 2014, Longyuan De Aar 2 South (Pty) Ltd submitted an Application for Amendment of the EA to DEA for an extension of the validity period of the EA, amendment to property descriptions included in the EA and amendments to Conditions 43, 44 and 45 of the EA. DEA granted the amendment of the EA on 14 August 2014.

1. Decision

As reflected in the letter from DEA dated 25 January 2016 and received by the Applicant on 16 February 2016² (attached as Annexure A hereto), DEA **has decided to amend the EA dated 1 March 2013 (as amended)** as follows:

Amendment 1: Amendment of project description (typographical error) in the EA: The project description on Page 5 of the EA dated 1 March 2013 has been amended to reflect the correct size (i.e. 50 m x 40 m) of the permanent hard standings for the crane adjacent to each turbine.

Amendment 2: Amendment of turbine specifications in the EA: The hub height, rotor diameter, permanent affected area (foundation size), maximum number of turbines, generation capacity per turbine and maximum output of the Wind Energy Facility have been amended, as outlined in page 2 of the decision attached as Annexure A herewith.

2. Right to appeal

We would like to draw your attention to your right to appeal against the decision to the Minister of Environmental Affairs in terms of Section 43 of the National Environmental Management Act 107 of 1998 read in conjunction with the National Appeal Regulations. An appeal submitted to the Minister must comply with the requirements of the National Appeal Regulations. In this regard, your attention is drawn to Chapter 2 of Government Notice No. 993, which prescribes the appeal procedure to be followed (refer to Annexure B herewith, for your convenience).

An appellant must submit an 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 date³ that the notification of the decision was sent to the applicant by the competent authority.

By post: Private Bag X447,
Pretoria, 0001; or
By hand: Environment House
473 Steve Biko,
Arcadia, Pretoria,
0083

Appeals must be submitted in writing to:

Mr Z Hassam, Director: Appeals and Legal Review, of DEA at the above mentioned addresses. Mr Hassam can also be contacted at: Tel (012) 399 9356 or Email: Appealsdirector@environment.gov.za.

Should you require any further information or have any queries, please contact the undersigned.

Yours sincerely



NICOLE HOLLAND (Pr. Sci. Nat.)

For: Holland & Associates - Environmental Consultants

² Note: Whilst the decision was dated 25 January 2016, notification of the decision was only sent to the Applicant by DEA (via email) on 16 February 2016. The decision was therefore received by the Applicant on 16 February 2016.

³ Notification of the decision was sent to the Applicant by DEA via email on 16 February 2016.

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Impact Assessments - Environmental Management Programs - Compliance Monitoring - Process Review

22 Februarie 2016

Geagte Belanghebbende en/of Geaffekteerde Party

**AANSOEK VIR DIE WYSIGING VAN DIE OMGEWINGSMAGTIGING UITGEREIK VIR DIE
VOORGESTELDE WINDENERGIE-AANLEG OP DIE OOSTELIKE PLATO (SUID) NABY DE
AAR, NOORD-KAAPROVINSIE: KENNISGEWING VAN BESLUIT
(DOS VERWYSINGSNOMMER: 12/12/20/2463/1/AM3)**

Ons korrespondensie gedateer 31 Julie 2015 betreffende die aansoek vir die wysiging van die Omgewingsmagtiging (OM) wat op 1 Maart 2013 (soos gewysig¹) uitgereik is vir die voorgestelde windenergie-aanleg (WEA) geleë op die oostelike plato (suid) naby De Aar in die Noord-Kaaprovinsie, het betrekking.

Soos in ons korrespondensie van 31 Julie 2015 uiteengesit, sluit die voorgestelde wysigings die volgende in: 'n wysiging aan die projekbeskrywing (i.e. toename in naafhoogte van windturbines, en wel van 100m na 120m; draaivlerke met 'n groter deursnit, en wel vanaf 120m na draaivlerke wat wissel van 100m tot 160m; 'n verhoging in turbines se kragopwekkingskapasiteit vanaf 1.5MW - 2.5MW na 2.3MW - 4.0MW; 'n wysiging van die grootte van turbine-fondasies) en die regstelling van 'n tipografiese fout in die OM.

Hierdie brief het ten doel om alle geregistreerde Belanghebbende en Geaffekteerde Partye (B&GPe) in kennis te stel van:

- (1) Die Departement van Omgewingsake (DOS) se besluit rakende die aansoek vir die wysiging van die OM; en
- (2) Die appèlproses wat gevolg moet word kragtens die Wet op Nasionale Omgewingsbestuur (NEMA) (Nr 107 van 1998), wat gelees moet word tesame met die Regulasies vir omgewingsinvloedbepalings (OIB) (2014) en die Nasionale Appèlregulasies.

1. Besluit

Soos uiteengesit in 'n brief vanaf die DOS gedateer 25 Januarie 2016, wat op 16 Februarie 2016² deur die Applikant ontvang is (hierby aangeheg as Bylae A), het die DOS **besluit om die OM**

¹ Die Omgewingsmagtiging (OM) is op 1 Maart 2013 uitgereik. Daar is Mei 2013 by die DOS aansoek gedoen om die naam van die aansoeker vanaf "Mulilo Renewable Energy (Edms) Bpk" na "Longyuan Mulilo De Aar 2 South (Edms) Bpk" te verander. Hierdie wysiging aan die OM is op 21 Mei 2013 deur die DOS goedgekeur. Longyuan De Aar 2 South (Edms) Bpk het in Julie 2014 'n Aansoek vir die Wysiging aan die OM by die DOS ingedien, en wel om die geldigheidstydperk van die OM te verleng; eiendomsbeskrywings in die OM te wysig, en wysigings aan Voorwaardes 43, 44 en 45 van die OM te versoek. Hierdie wysigings aan die OM is op 14 Augustus 2014 deur die DOS goedgekeur.

² Nota: Terwyl die besluit gedateer 25 Januarie 2016 is, is kennisgewing van die besluit eers na die Applikant deur DOS (via e-pos) op 16 Februarie 2016 gestuur. Die besluit is dus deur die Applikant op 16 Februarie 2016 ontvang.

gedateer 1 Maart 2013 (soos gewysig) as volg te verander:

Wysiging 1: Wysiging van die projekbeskrywing (tipografiese fout) in die OM: Die projekbeskrywing op Bladsy 5 van die OM gedateer 1 Maart 2013 is verander om die korrekte grootte (i.e. 50m x 40m) van die permanente harde oppervlakte vir 'n hyskraan langs elke turbine weer te gee.

Wysiging 2: Wysiging van die turbine-spesifikasies in die OM: Die naafhoogte, deursnit van draaivlerke, permanente geaffekteerde oppervlakte (grootte van fondasie), maksimum aantal turbines, opwekkingskapasiteit per turbine en maksimum uitset van die Windenergie-aanleg is gewysig, soos uiteengesit op bladsy 2 van die besluit wat as Bylae A hierby aangeheg is.

2. Reg tot appèl

Ons wil graag u aandag vestig op u reg om by die Minister van Omgewingsake teen hierdie besluit te appelleer. Dit moet geskied in terme van Afdeling 43 van die Wet op Nasionale Omgewingsbestuur (Nr 107 van 1998), wat gelees moet word tesame met die Nasionale Appèlregulasies. 'n Appèl wat by die Minister ingedien word, moet voldoen aan die vereistes van die Nasionale Appèlregulasies. U word versoek om kennis te neem van Hoofstuk 2 van Goewermentskennisgewing Nr R993 waarin die prosedure vir sodanige appèl uiteengesit word (verwys na Bylae B, vir u gerief hierby aangeheg).

'n Persoon wat teen die besluit appelleer, moet die appèl binne 20 dae vanaf die datum³ waarop die kennisgewing oor die besluit deur die bevoegde owerheid aan die Applikant gestuur is by die Appèl-administrateur indien, asook 'n afskrif daarvan stuur aan die Applikant, alle geregistreerde Belanghebbende en Geaffekteerde Partye en enige staatsinstansie wat 'n belang by die aansoek het.

Per pos: Privaatsak X447,
Pretoria, 0001; of

Per hand: Environment House
Steve Bikostraat 473,
Arcadia, Pretoria,
0083

Appèlle moet skriftelik ingedien word by:

Mnr Z Hassam, Direkteur: Appèlle en Regsoorsig van die DOS en wel by enige van die bostaande adresse. U kan ook met mnr Hassam in verbinding tree by Tel: (012) 399-9356 of E-pos: Appealsdirector@environment.gov.za.

Tree asb met onderstaande in verbinding indien u enige verdere navrae het of inligting verlang.

Die uwe



NICOLE HOLLAND (Pr. Sci. Nat.)

Vir: Holland & Associates - Omgewingskonsultante

³ Kennisgewing van die besluit is op 16 Februarie 2016 (via e-pos) deur die DOS aan die Applikant gestuur.

ANNEXURE A:
DEPARTMENT OF ENVIRONMENTAL AFFAIRS' DECISION – 25 JANUARY 2016

BYLAE A:
DEPARTEMENT VAN OMGEWINGSAKE SE BESLUIT – 25 JANUARIE 2016



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Private Bag X 447· PRETORIA · 0001· Environment House · 473 Steve Biko, Arcadia· PRETORIA
Tel (+ 27 12) 399 9372

DEA Reference: 12/12/20/2463/1/AM3

Enquiries: Dikeledi Mokotong

Telephone: (012) 399 8801 E-mail: dmokotong@environment.gov.za

Mr Jonny Hamilton Cullum
Longyuan Mulilo De Aar 2 South (Pty) Ltd
PO Box 50
CAPE TOWN INTERNATIONAL AIRPORT
7525

Telephone Number: (021) 934 5278
Email Address: karen@mulilo.com

PER EMAIL/MAIL

Dear Mr Cullum

AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 01 MARCH 2013 FOR THE ESTABLISHMENT OF A WIND ENERGY FACILITY SITUATED ON THE EASTERN PLATEAU (SOUTH) NEAR DE AAR WITHIN THE EMTHANJENI LOCAL MUNICIPALITY, PIXLEY KA SEME DISTRICT MUNICIPALITY, NORTHERN CAPE PROVINCE

The Environmental Authorisation (EA) dated 01 March 2013, your application for an amendment to the EA dated 24 June 2015, the acknowledgement letter dated 29 June 2015, the draft report received for comment on 04 August 2015, the comments issued by this Department on 25 August 2015 and the report received on 17 September 2015 refer.

Based on a review of the reason for requesting an amendment to the above EA, this Department, in terms of Chapter 5 of the Environmental Impact Assessment Regulations, 2014, has decided to amend the EA dated 01 March 2013 as amended as follows:

Amendment 1: Amendment of project description in the EA:

Page 05 of the EA dated 01 March 2013:

From:

"A permanent hard standing made of compacted gravel and approximately 20 50 m x 40 m would be constructed adjacent to each turbine location for the crane."

To:

"A permanent hard standing made of compacted gravel and approximately 50 m x 40 m would be constructed adjacent to each turbine location for the crane."

Amendment 2: Amendment of turbine specifications in the EA:

The applicant wishes to amend the EA for the abovementioned project by amending the project description as follows:

- Reduce the number of turbine from 103 to either 61 or 30;
- Increasing the hub heights from 100m to a minimum of 90m and a maximum of 120m;
- Increasing the rotor diameters from 120m to a minimum of 100m and a maximum of 160m;
- Increasing the generation size of the turbines from 1.5MW – 2.5MW to 2.3MW – 4.0MW; and,
- The foundation size would be 18.4m in diameter that narrows up to 10.6m at the surface (the visible portion) with a depth of 3.5m once completed.

The following table is hereby included on page 05 of the EA and will replace the turbine specifications as outlined in the EA dated 01 March 2013 as amended:

Component	Description/ Dimensions
<i>Hub height from ground level</i>	<i>120m</i>
<i>Rotor diameter</i>	<i>160m</i>
<i>Maximum of turbines</i>	<i>61</i>
<i>Permanent affected area (foundation size)</i>	<i>The foundation size would be 18.4m in diameter that narrows up to 10.6m at the surface (the visible portion) with a depth of 3.5m once completed.</i>
<i>Generation capacity per turbine</i>	<i>2.3 MW – 4.0MW</i>
<i>Maximum Output of the Wind Energy Facility</i>	<i>140MW</i>

It must be noted that whilst the applicant applied for a range of parameters in the number of turbines, the hub height and rotor diameter, following a review of the motivation report provided and consultation with the specialist studies, this Department has decided to authorise the specifications as described in the table above.

This proposed amendment letter must be read in conjunction with the EA dated 01 March 2013 as amended.

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

Your attention is drawn to Chapter 2 of Government Notice No. R.993, which prescribes the appeal procedure to be followed. Kindly include a copy of this document with the letter of notification to interested and affected parties.

An appellant must submit an 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 applicant by the competent authority.

By post: Private Bag X447,
Pretoria,
0001; or

By hand: Environment House
473 Steve Biko Road,
Arcadia,
Pretoria.

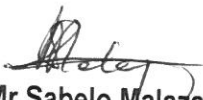
Appeals must be submitted in writing to:

Mr Z Hassam, Director: Appeals and Legal Review, of this Department at the above mentioned addresses. Mr Hassam can also be contacted at:
Tel: (012) 399 9356
Email: Appealsdirector@environment.gov.za

Please note that in terms of Section 43(7) of the National Environmental Management Act, 1998, an appeal under Section 43 of that Act 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.

For guidance on appeals submitted to the Minister in terms of NEMA and the SEMAs, please find a copy of the guideline on the administration of appeals on the Department's website: (https://www.environment.gov.za/documents/forms#legal_authorisations).

Yours faithfully



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

Date: 25/01/2016

cc: Ms Nicole Holland	Holland and Associates Environmental Consultants (Pty) Ltd	Email: nicole@hollandandassociates.com
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ANNEXURE B
NATIONAL APPEAL REGULATIONS (GN R. 993)

BYLAE B
NASIONALE APPELREGULASIES (GK R. 993)

GOVERNMENT NOTICES

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*.