

Holland & Associates



Environmental Consultants

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

15 April 2016

Dear Interested and/or Affected Party

AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 1 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: NOTIFICATION OF DECISION (DEA REFERENCE NUMBER: 12/12/20/2463/AM4)

This letter serves to notify all registered Interested and Affected Parties (I&APs) of the Department of Environmental Affairs' (DEA) decision in respect of the Application for Amendment of the Environmental Authorisation issued on 1 March 2013 for the establishment of a wind energy facility situated on the Eastern plateau (South) near De Aar in the Northern Cape Province. Furthermore, the provisions regarding the submission of appeals that are contained in the National Environmental Management Act (NEMA) (No. 107 of 1998) Environmental Impact Assessment (EIA) Regulations (2014) are also outlined herein, should an I&AP wish to appeal DEA's decision.

1. Decision

We wish to inform you that the DEA **has decided to amend the Environmental Authorisation (EA)** dated 1 March 2013, as amended, as follows:

Amendment 1: Amendment of the contact details of the holder of the EA:

The holder of the EA has been amended from "Longyuan Mulilo De Aar 2 South (Pty) Ltd", to "Mulilo De Aar 2 South (Pty) Ltd".

Amendment 2: Amendment to extend the validity period of the EA:

The validity period of the EA has been extended from 14 August 2016 to 14 August 2018.

Refer to DEA's decision, included in Annexure A herewith, for further information. Note: DEA's decision (amendment letter) must be read in conjunction with the EA dated 1 March 2013 as amended¹.

¹ Copies of the EA dated 1 March 2013, as amended, are available on request.

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 No. 107 of 1998 read with the National Appeal Regulations.

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 date² 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,

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 Email: Appealsdirector@environment.gov.za.

An appeal submitted to the Minister must comply with the requirements of the National Appeal Regulations (refer to Annexure B herewith, for your convenience).

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 Notification of the decision was sent to the Applicant by DEA on 8 April 2016.

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Environmental Consultants

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

15 April 2016

Geagte Belanghebbende en/of Geaffekteerde Party

WYSIGING VAN DIE OMGEWINGSMAGTIGING UITGEREIK OP 1 MAART 2013 VIR DIE OPRIGTING VAN 'N WINDENERGIE-AANLEG GELEË OP DIE OOSTELIKE PLATO (SUID) NABY DE AAR IN DIE EMTHANJENI PLAASLIKE MUNISIPALITEIT, PIXLEY KA SEME DISTRIKSMUNISIPALITEIT, NOORD-KAAPROVINSIE: KENNISGEWING VAN BESLUIT (DOS VERWYSINGSNR: 12/12/20/2463/AM4)

Hierdie brief het ten doel om alle Belanghebbende en/of Geaffekteerde Partye (B&GPe) in kennis te stel van die Departement van Omgewingsake (DOS) se besluit wat betref die Aansoek vir die Wysiging van die Omgewingsmagtiging wat op 1 Maart 2013 uitgereik is vir die oprigting van 'n windenergie-aanleg op die Oostelike Plato (Suid) naby De Aar in die Noord-Kaapprovinsie. Die voorwaardes vir die indien van 'n appèl, soos vervat in die Wet op Nasionale Omgewingsbestuur (NEMA) (Nr 107 van 1998) se Regulasies (2014) vir Omgewingsinvloedbepalings (OIB), word ook in hierdie brief uiteengesit, indien 'n B&GP teen die DOS se besluit wil appelleer.

1. Besluit

Ons stel u hiermee in kennis dat die DOS **besluit het om die Omgewingsmagtiging (OM)** gedateer 1 Maart 2013, soos gewysig, as volg te verander:

Wysiging 1: Wysiging van die kontakbesonderhede van die houer van die OM:

Die houer van die OM is verander van "Longyuan Mulilo De Aar 2 South Edms (Bpk)", na "Mulilo De Aar 2 South Edms (Bpk)".

Wysiging 2: Wysiging om die geldigheidstydperk van die OM te verleng:

Die geldigheidstydperk van die OM is vanaf 14 Augustus 2016 tot 14 Augustus 2018 verleng.

Lees asb die DOS se besluit, wat as Bylae A hierby aangeheg is, vir meer inligting. Neem kennis: die DOS se besluit (Wysigingsbrief) tesame met die OM gedateer 1 Maart 2013, soos gewysig¹, gelees moet word.

¹ Afskrifte van die OM gedateer 1 Maart 2013, soos gewysig, is beskikbaar op versoek.

2. Reg tot appèl

Ons wil graag u aandag vestig op u reg om teen hierdie besluit van die Minister van Omgewingsake te appelleer kragtens afdeling 43 van die Wet op Nasionale Omgewingsbestuur, Wet Nr 107 van 1998, en wat gelees moet word tesame met die Nasionale Appèlregulasies.

Die persoon wat appelleer moet 'n appèl by die appèladministrateur indien en 'n kopie daarvan aan die Applikant voorsien, asook aan elke geregistreerde Belanghebbende en Geaffekteerde Party en enige staatsinstansie wat 'n belang daarby het. Dit moet ingedien word binne 20 dae² vandat die kennisgewing oor die besluit deur die bevoegde owerheid aan die applikant gestuur is.

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.

Enige appèl wat by die Minister ingedien word, moet voldoen aan die vereistes van die Nasionale Appèlregulasies (verwys na Bylae B wat vir u gerief hierby ingesluit is).

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

² Kennisgewing van die besluit is op 8 April 2016 deur die DOS aan die Applikant gestuur.

ANNEXURE A:
DEPARTMENT OF ENVIRONMENTAL AFFAIRS' DECISION – 7 APRIL 2016

BYLAE A:
DEPARTEMENT VAN OMGEWINGSAKE SE BESLUIT – 7 APRIL 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/AM4

Enquiries: Mr Muhammad Essop

Telephone: (012) 399 9406 **E-mail:** MEssop@environment.gov.za

Mr Jonny Hamilton Cullum
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) issued for the above application by this Department on 01 March 2013, the amendments to the EA issued on 21 May 2013, 14 August 2014 and 25 January 2016 respectively and your application for amendment of the EA received by this Department on 08 March 2016 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 to the contact details of the holder of the EA

From:

"Longyuan Mulilo De Aar 2 South (Pty) Ltd"

Represented by: Jonny Hamilton Cullum
PO Box 50
CAPE TOWN INTERNATIONAL AIRPORT
7525

Telephone Number: (021) 934 5278
Fax Number: (021) 935 0505
Email Address: karen@mulilo.com

M.S

To:

"Mulilo De Aar 2 South (Pty) Ltd"

Represented by: Jonny Hamilton Cullum
PO Box 50
CAPE TOWN INTERNATIONAL AIRPORT
7525

Telephone Number: (021) 934 5278
Fax Number: (021) 935 0505
Email Address: karen@mulilo.com

Amendment 2: Amendment to extend the validity period of the EA:

The activity must commence within a period of two (02) years from the date of expiry of the amendment to the EA issued on 14 August 2014 (i.e. the EA lapses on 14 August 2018). 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.

Furthermore a shapefile of the approved development layout/footprint must be submitted to this Department within two (2) months from the date of this letter. The shapefile must be created using the Hartebeesthoek 94 Datum and the data should be in Decimal Degree Format using the WGS 84 Spheroid. The shapefile must include at a minimum the following extensions i.e. .shp; .shx; .dbf; .prj; and, .xml (Metadata file). If specific symbology was assigned to the file, then the .avl and/or the .lyr file must also be included. Data must be mapped at a scale of 1:10 000 (please specify if an alternative scale was used). The metadata must include a description of the base data used for digitizing. The shapefile must be submitted in a zip file using the EIA application reference number as the title.

The shape file must be submitted to:

Postal Address:
Department of Environmental Affairs
Private Bag X44
Pretoria, 0001

Physical address:
Department of Environmental Affairs
Environment House
473 Steve Biko
Arcadia
Pretoria

For Attention: Mr Muhammad Essop
Integrated Environmental Authorisations
Strategic Infrastructure Developments
Telephone Number: (012) 399 9406
Email Address: messop@environment.gov.za

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,
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: 07/04/2016

cc:	Ms Nicole Holland	Nicole Holland & Associates Environmental Consultants	E-mail: nicole@hollandandassociates.net
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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*.