



forestry, fisheries & the environment

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

Private Bag X 447· PRETORIA ·0001· Environment House ·473 Steve Biko Road, Arcadia· PRETORIA

DFFE Reference: 14/12/16/3/3/1/2591

Enquiries: Ms Azrah Essop

Telephone: (012) 399 8529 **E-mail:** AEssop@environment.gov.za

Mr Thomas Condesse
energyTEAM (PTY) LTD
60 Hennie Winterbach
PANORAMA
7500

Telephone Number: 083 460 3898
Email Address: thomas.condesse@energyteam.co.za

PER EMAIL / MAIL

Dear Mr Condesse

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, ACT NO. 107 OF 1998, AS AMENDED: FOR THE PROPOSED ALTINA 120MW SOLAR PHOTOVOLTAIC (PV) & 40MW BATTERY ENERGY STORAGE SYSTEMS (BESS) PROJECT NEAR THE TOWN OF ORKNEY, FREE STATE PROVINCE

With reference to the above application, please be advised that the Competent Authority has decided to refuse the application for Environmental Authorisation. The reasons for this refusal are contained in the Record of Refusal, of which a copy is attached hereto.

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

In terms of the Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000), you are entitled to the right to fair, lawful and reasonable administrative action; and to written reasons for administrative action that affects you negatively. Further your attention is drawn to the provisions of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013) which stipulates that the Competent Authority should conduct itself in a responsible manner when collecting, processing, storing and sharing an individual or another entity's personal information by holding the Competent Authority accountable should the Competent Authority abuses or compromises your personal information in any way.

Your attention is drawn to Chapter 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) National Appeal Regulations published under Government Notice R993 in Government Gazette No. 38303 dated 08 December 2014 (National Appeal Regulations, 2014), which prescribe the appeal procedure to be followed. Kindly include a copy of this document (National Appeal Regulations, 2014) with the letter of notification to interested and affected parties in this matter.

Should any person wish to lodge an appeal against this decision, he/she must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party, and any organ of state with interest in the matter within 20 days from the date that the notification of the decision was sent to the registered interested and affected parties by the applicant; or the date that the notification of the decision was sent to the applicant by the Department, whichever is applicable.

Appeals must be submitted in writing in the prescribed form to:

The Director: Appeals and Legal Review of this Department at the below mentioned addresses.

By email: appeals@dfef.gov.za

By hand: Environment House
473 Steve Biko Road
Arcadia
PRETORIA
0083; or

By post: Private Bag X447
PRETORIA
0001

To obtain the prescribed appeal form and for guidance on the submission of appeals, please visit the Department's website at <https://www.dffe.gov.za/documents/forms#legal> authorisations or request a copy of the documents at appeals@dfef.gov.za.

Yours faithfully



Ms Millicent Solomons
Acting Chief Director: Integrated Environmental Authorisations
Department of Forestry, Fisheries and the Environment
Date: 01/03/2022.

cc:	Ms. Grace Mkhosana	Free State: DESTEA	Email: mkhosana@destea.gov.za
	Andre Kotze	Moghaka Local Municipality	Email: andre@moghaka.gov.za
	Donavan Henning	Nemai Green (Pty) Ltd	Email: donavanh@nemai.co.za



forestry, fisheries & the environment

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

Record of Refusal

In terms of Regulation 24(1)(b) of the Environmental Impact Assessment Regulations, 2014,
as amended

The Proposed Altina 120MW Solar Photovoltaic (PV) & 40MW Battery Energy Storage Systems (BESS)

Project near the town of Orkney, Free State Province

Fezile Dabi District Municipality

Authorisation register number:	14/12/16/3/3/1/2591
Last amended:	First issue
Holder of authorisation:	energyTEAM (Pty) Ltd
Location of activity:	PV area Portion 0 of Farm Batsfontein 290 ; Portion 0 of Farm Altona 50; Portion 0 of Farm Rietvlei 539 Power Line Portion 0 of Farm Altona 50 and Portion 4 of Farm Barberspan 452 Ward 22 within the Moqhaka Local Municipality; Fezile Dabi District Municipality, Free State Province.

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 Competent Authority is satisfied, on the basis of information available to it that the applicant should not be authorised to undertake the activities specified below.

Details regarding the basis on which the Competent Authority reached this decision are set out in Annexure 1 to this Record of Refusal.

Activities refused

By virtue of the powers conferred on it by the National Environmental Management Act, Act No. 107 of 1998, as amended and the Environmental Impact Assessment Regulations, 2014, as amended, the Department hereby refuses the application for Environmental Authorisation to –

energyTEAM (PTY) LTD

with the following contact details –

Mr Thomas Condesse

energyTEAM (PTY) LTD

60 Hennie Winterbach

Panorama

WESTERN CAPE

7500

Telephone Number: 083 460 3898

Email Address: thomas.condesse@energyteam.co.za

Not to undertake the following activities (hereafter referred to as “the activity”) indicated in Listing Notice 1, Listing Notice 2 and Listing Notice 3 of the EIA Regulations, 2014 as amended:

Activity number	Activity description
Listing Notice 1	
<p><u>Listing Notice 1, Item 11 (i):</u> <i>“The development of facilities or infrastructure for the transmission and distribution of electricity-</i> <i>(i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts; ”</i></p>	<p>Proposed 132kV overhead power line outside an urban area, of approximately 779 m in length, linking the proposed solar facility to the existing Eskom Substation. Proposed on-site substation with capacity of 160MW, 132 kV/22kV.</p>
<p><u>Listing Notice 1, Item 12 (ii)(a) and (c):</u> <i>“The development of</i> <i>(ii) Infrastructure or structures with a physical footprint of 100 m² or more;</i> <i>Where such development occurs –</i> <i>(a) within a watercourse; or</i> <i>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;.”</i></p>	<p>Encroachment of project-related infrastructure into wetlands and within 32m of watercourses. This activity may be triggered for the development infrastructure and rehabilitation activities where erosion control structures may be constructed within wetland areas or within 32m of watercourses</p>
<p><u>Listing Notice 1, Item 19:</u> <i>“The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse”</i></p>	<p>Encroachment of project-related infrastructure into wetlands. This activity may also be triggered during rehabilitation of wetlands.</p>
<p><u>Listing Notice 1, Item 24 (ii):</u> <i>“The development of a road—</i> <i>(ii) with a reserve wider than 13,5 meters, or where no reserve exists where the road is wider than 8 metres;”</i></p>	<p>New roads required for the Project (construction and operational phases). Internal Roads will have a 12m reserve and a road width of 4m – 10m.</p>

<p><u>Listing Notice 1, Item 27:</u> <i>"The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation"</i></p>	<p>Clearance of areas associated with the construction footprint. Approximately 9 ha to be cleared for hardstanding infrastructure. Only the support legs of the PV panels will impact on the clearance of vegetation.</p>
<p><u>Listing Notice 1, Item 28(ii):</u> <i>"Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development: (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;"</i></p>	<p>Footprint of Project on land that was previously used for agricultural purposes, outside of an urban area, with a footprint of approximately 180 ha.</p>
<p><u>Listing Notice 1, Item 56(i) and (ii):</u> <i>"The widening of a road by more than 6 metres, or the lengthening of a road by more than 1 kilometre- (i) where the existing reserve is wider than 13,5 meters; or (ii) where no reserve exists, where the existing road is wider than 8 metres;"</i></p>	<p>Internal roads (existing farm roads) within the PV site to be incorporated as far as possible and may be lengthened and widened.</p>
<p>Listing Notice 2</p>	
<p><u>Listing Notice 2, Item 1:</u> <i>"The development of facilities or infrastructure for the generation of electricity from a renewable resource where the electricity output is 20 megawatts or more,"</i></p>	<p>The proposed Project involves the development of a PV facility with a total generation capacity of 120MW renewable solar energy with 40MW BESS.</p>
<p><u>Listing Notice 2, Item 15:</u> <i>"The clearance of an area of 20 hectares or more of indigenous vegetation"</i></p>	<p>Cumulative area to be cleared for entire Project (except linear components) will exceed 20 hectares</p>

Listing Notice 3	
<p><u>Listing Notice 3, Item 4 (b)(i)(cc) & (ee):</u> <i>"The development of a road wider than 4 metres with a reserve less than 13,5 metres.</i></p> <p>b. Free State</p> <p><i>i. Outside urban areas:</i></p> <p><i>(cc) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</i></p> <p><i>(ee) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans."</i></p>	<p>Sections of the Project's new roads encroach into the Critical Biodiversity Area (CBA) 1 in terms of the Free State Biodiversity Plan.</p>
<p><u>Listing Notice 3, Item 12 (b)(i), (ii) & (iv):</u> <i>"The clearance of an area of 300 square metres or more of indigenous vegetation</i></p> <p>b. Free State</p> <p><i>i. 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</i></p> <p><i>ii. Within critical biodiversity areas identified in bioregional plans;</i></p> <p><i>iv. Areas within a watercourse or wetland; or within 100 metres from the edge of a watercourse or wetland."</i></p>	<p>Clearance of areas of indigenous vegetation as part of the development footprint within the following sensitive areas:</p> <ul style="list-style-type: none"> · Areas consisting of an endangered ecosystem (Vaal-Vet Sandy Grassland according to SANBI, 2011); · CBA 1; and · 100 m from the edge of a watercourse or wetland.
<p><u>Listing Notice 3, Item 14 (ii)(a)(c), (b)(i)(dd) & (ff):</u> <i>The development of—</i></p> <p><i>(ii) infrastructure or structures with a physical footprint of 10 square metres or more;</i> <i>where such development occurs—</i></p> <p><i>(a) within a watercourse;</i></p>	<p>Development footprint within watercourse(s) / within 32 m from watercourse(s) within the following sensitive areas: CBA 1</p> <p>This activity will be triggered for the development infrastructure for the Project and rehabilitation</p>

<p>(c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse;</p> <p>b. Free State</p> <p>i. Outside urban areas:</p> <p>(dd) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans.</p>	<p>activities where erosion control structures may be constructed.</p>
<p><u>Listing Notice 3, Item 18:</u></p> <p><i>"The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre.</i></p> <p>b. Free State</p> <p>i. Outside urban areas</p> <p>(gg) 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; or</p> <p>(hh) Areas within a watercourse or wetland; or within 100 metres from the edge of a watercourse or wetland"</p>	<p>Existing roads would not be widened by more than 4m. The combined lengthening of existing roads may exceed 1km. There is a drainage region in the area where construction will occur. In addition, the facility is located within 5km of the Nielsview Nature reserve a protected area identified in terms of NEMPAA.</p>

as described in the Basic Assessment Report (BAR) dated December 2022 at:

SG 21 Code

PV Area:

F	0	3	6	0	0	0	0	0	0	0	0	0	2	9	0	0	0	0	0	0
F	0	3	6	0	0	0	0	0	0	0	0	0	0	5	0	0	0	0	0	0
F	0	3	6	0	0	0	0	0	0	0	0	0	5	3	9	0	0	0	0	0

Powerline:

F	0	3	6	0	0	0	0	0	0	0	0	0	0	5	0	0	0	0	0	0
F	0	3	6	0	0	0	0	0	0	0	0	0	4	5	2	0	0	0	0	4

Altina PV Coordinates:

PV Site

Block 1

1B	North Eastern Corner;	27° 3'8.45"S	26°44'42.97"E
1C	South Western Corner	27° 4'2.27"S	26°45'6.62"E
1D	South Eastern Corner	27° 3'46.40"S	26°45'18.88"E

Block 2

2A	Western Corner	27° 4'8.78"S	26°45'11.42"E
2B	Northern Corner	27° 3'57.72"S	26°45'19.87"E
2C	South-Western Corner	27° 4'12.85"S	26°45'20.02"E
2D	South-Eastern Corner	27° 4'12.30"S	26°45'25.20"E

Power Line

3A	Start point (PV Site)	27° 3'9.77"S	26°44'28.57"E
3B	Bend Point 1	27° 3'6.03"S	26°44'27.56"E
3C	Bend Point 2	27° 3'0.93"S	26°44'31.84"E
3D	End point (Eskom Substation)	27° 2'55.93"S	26°44'47.22"E

- for the up to 120 MW Altina Photovoltaic & 40MW Battery Energy Storage Systems (BESS) Project near the town of Orkney, Free State Province, hereafter referred to as "the property".

The facility will comprise the following:

- PV panel arrays, which are the subsystems which convert incoming sunlight into electrical energy;
- Mounting structures to support the PV panels;
- On-site inverters to convert DC to facilitate AC connection between the solar energy facility and electricity grid;
- 40MW Lithium Ion BESS;
- On-site substation (facility substation)
- New 132 kV power lines between the on-site substation and the grid connection point;
- Cabling between the Project's components, to be laid underground (where practical);
- Administration Buildings (Offices);
- Workshop areas for maintenance and storage;
- Temporary laydown areas;
- Internal access roads and perimeter fencing of the footprint;

- High Voltage (HV) Transformers; and
- Security Infrastructure.

Technical details of the Solar Facility:

Component	Description/ Dimensions
Location of the site	Approximately 7km to the south of the town of Orkney, in the Moqhaka Local Municipality, within the Fezile Dabi District Municipality
SG Codes	PV Area: F03600000000029000000 F03600000000005000000 F036000000000053900000 Powerline: F03600000000005000000 F036000000000045200004
Total facility area	Total facility area: ±180Ha PV area: ±132Ha
Site access	Directly from the R76 which runs to the north of the site.
Export capacity	Up to 120MW
Proposed technology	Solar PV
Height of PV panels	± 2m
Number of inverters required	Approximately 25
Area occupied by inverter / transformer stations / substations	Area occupied by inverters = ± 1 ha Area occupied by on-site substation = ± 1.5 ha
Capacity of on-site substation	160MW, 132 kV/22kV
Area occupied by both permanent and construction laydown areas	Construction Laydown area = ± 2.1 ha Overall hardstanding area (inclusive of laydown area, OSS, O&M area, BESS) = ± 9ha.
Area occupied by buildings	Area occupied by Operation & Maintenance (O & M) infrastructure = ± 1 ha
Length of internal roads	~13 km
Width of internal roads	12m reserve and 4m – 10m road widths
Length of powerline from onsite substation (OSS) to Grid Connection	~800 m

Height of fencing	1.8m - 2.4m
Type of fencing	Type will vary around the site, welded mesh, palisade and electric fencing

Legislative Requirements

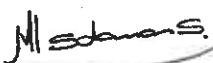
Refusal of the application

1. The application for Environmental Authorisation is refused for the Proposed Altina 120MW Solar Photovoltaic (PV) & 40MW Battery Energy Storage Systems (BESS) Project Near The Town Of Orkney, Free State Province, as described above.

Notification of refusal and right to appeal

2. The applicant must notify every registered interested and affected party, of the Competent Authority's decision, in writing and within 14 (fourteen) calendar days of the date of this record of refusal.
3. The notification referred to must –
 - 3.1. specify the date on which the record of refusal was issued;
 - 3.2. inform the interested and affected party of the appeal procedure provided for in the National Appeal Regulations, 2014;
 - 3.3. advise the interested and affected party that a copy of the record of refusal will be furnished on request; and,
 - 3.4. give the reasons of the Competent Authority for the decision.

Date of refusal of the application for Environmental Authorisation: 01/03/2023.



Ms Milicent Solomons

Acting Chief Director: Integrated Environmental Authorisations

Department of Forestry, Fisheries and the Environment

Annexure 1: Reasons for Decision

1. Information considered in making the decision

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

- a) The listed activities as applied for in the amended application form received on 04 November 2022.
- b) The information contained in the BAR dated December 2022.
- c) The comments received from interested and affected parties as included in the BAR dated December 2022.
- d) Mitigation measures as proposed in the BAR dated December 2022.
- e) The information contained in the specialist studies contained within the appendices of the BAR dated December 2022 and as appears below:

Study	Specialist	Date
Terrestrial Ecological Assessment	The Biodiversity Company – J. Jacobs A., Husted and C. Burger	July 2022
Avifaunal Assessment	The Biodiversity Company - T. Clark and A. Husted	October 2022
Wetland Delineation and Risk Assessment – Appendix E1	The Biodiversity Company - T. Clark and A. Husted	October 2022
Heritage Impact Assessment	J A van Schalkwyk (D Litt et Phil),	October 2022
Social Impact Assessment	Nemai Consulting	October 2022
Desktop Palaeontological Impact Assessment	Banzai Environmental	July 2022
Visual Impact Assessment	Eco Elementum (Pty) Ltd	October 2022
Agricultural Potential Impact Assessment	Dr Andries Gouws: Index	April 2022, Revised October 2022
Wetland Rehab Strategy	The Biodiversity Company - A. Husted	October 2022
Search and Rescue Plan		Included in Appendix E11
Draft Rehabilitation offset strategy		Included in Appendix E10
Storm Water management plan		Included in Appendix D

- f) 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 BAR dated December 2022 identified all legislation and guidelines that have been considered in the preparation of the BAR.
- b) The findings of all the specialist studies conducted and their recommended mitigation measures.
- c) The location of the proposed solar energy facility.
- d) The comments received by various I&APs and the responses thereto as contained in Appendix K of the BAR,
- e) The comments provided by the Chief Directorate: Integrated Environmental Authorisations on the draft BAR and the amended Draft BAR on the 07 October 2022 and 22 November 2022, respectively.

3. Findings

After consideration of the information and factors listed above, the Department made the following findings -

- a) The Competent Authority advised the EAP during the comment period on the draft and amended BAR, that a finalised offset plan must be produced. The Wetland Specialist (Appendix E) recommends that a wetland offset strategy and water use license be initiated and recommended that on-site rehabilitation of wetland systems was required. The conclusion of the specialist stated that an offset strategy would be required and the applicant produced a draft wetland rehabilitation study during the amended Draft BAR stage. The Competent Authority cannot support developments within high sensitive areas which will result in negative residual impacts, without a clear commitment and indication of how the significant impacts would be mitigated and managed. There is no finalised offset plan or strategy to effectively assess the impact of the proposed development on the sensitive wetland areas.
- b) The Competent Authority notes that the applicant has made effort to redesign the layout to avoid direct impact to wetlands, however, in the absence of a finalised offset strategy, it is unclear whether the chosen rehabilitation offset approach will be sufficient to counter and improve the functionality of the impacted wetlands.
- c) The BAR in its current form is not adequate to make an informed decision on the abovementioned application as it is unclear whether the wetland rehabilitation strategy will be sufficient to counter the loss of high sensitivity wetland areas.

Consequently there is no sufficient, adequate and reliable basis upon which the statutory discretion of the Competent Authority can be exercised in favour of the applicant and therefore the application for Environmental Authorisation is refused.



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

Private Bag X 447 Pretoria 0001, Environment House, 473 Steve Biko Road, Pretoria, 0002 Tel: +27 12 399 9000, Fax: +86 625 1042

Enquiries: Devinagie Bendeman Telephone: 012 399 9337 E-mail: vbendeman@dfre.gov.za

Ms. Milicent Solomons
Director: Priority Infrastructure Projects

Dear Ms. Solomons

APPOINTMENT AS CHIEF DIRECTOR: INTERGRATED ENVIRONMENTAL AUTHORISATIONS (ACTING), FROM 01 MARCH UNTIL 31 MARCH 2023

I hereby inform you that I have decided to appoint you as Acting Chief Director: Intergrated Environmental Authorisations from 01 March until 31 March 2023.

All correspondence and other documents that are usually signed by the Chief Director: Intergrated Environmental Authorisations during must be signed under Acting Chief Director: Intergrated Environmental Authorisations during the above-mentioned period.

Your appointment in the above acting position remains subject to the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994), as amended, the Government Employees Pension Fund Act, 1996 (Proclamation No. 21 of 1998), the regulations promulgated under these Acts and relevant circulars.

In the execution of your duties and the exercising of the powers delegated to you, you will furthermore be subjected to the provisions of the Public Finance Management Act, compliance with the promotion of Access to Information Act, Promotion of Administrative Justice Act, the Minimum Information Security Standards, Departmental Policies and other applicable legislations with the Republic of South Africa. You are therefore advised to make yourself familiar with the provisions of the legislations and policies and the amendments thereof. (Copies of departmental policies can be obtained from the Human Resource Office).

Yours Sincerely

Ms. Devinagie Bendeman

Deputy Director-General: Regulatory Compliance and Sector Monitoring

Date: 22 February 2023



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The processing of personal information by the Department of Forestry, Fisheries and the Environment is done lawfully and not excessive to the purpose of processing in compliance with the POPI Act, any codes of conduct issued by the Information Regulator in terms of the POPI Act and / or relevant legislation providing appropriate security safeguards for the processing of personal information of others

ACKNOWLEDGEMENT

I ACCEPT / ~~DO NOT ACCEPT~~
appointment as Acting Chief Director:
Intergrated Environmental Authorisations
Signed:

Date: 27/02/2023