



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

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DEA Reference: 14/12/16/3/3/1/1136

Enquiries: Mr Vincent Chauke

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Mr Umesh Bahadur
SANBI: Working for Wetlands Programme
Private Bag X101
PRETORIA
0001

Telephone Number: (012) 843 5200
Fax Number: (086) 555 9838

PER FACSIMILE / MAIL

Dear Mr Bahadur

APPLICATION FOR EXEMPTION FROM APPOINTING OF AN INDEPENDENT EAP AND DEVIATION FROM SOME PARTS OF THE PUBLIC PARTICIPATION PROCESS FOR THE PROPOSED WORKING FOR WETLANDS REHABILITATION PROJECT WITHIN NKONKOBÉ LOCAL MUNICIPALITY, NELSON MANDELA BAY LOCAL MUNICIPALITY AND ELUNDINI LOCAL MUNICIPALITY IN EASTERN CAPE PROVINCE

The application form received by the Department on 05 February 2014 for the abovementioned project and your request for exemption from regulation 17(a) and deviations from regulation 10(2)(d); regulation 54(7)(b) and regulation 56(5) and (6) of the Environmental Impact Assessment (EIA) Regulations, 2010, refer.

EXEMPTION APPLICATION:

You have requested exemption from the provisions of the following regulation: **Regulation 17(a):** "An EAP or person compiling a specialist report or undertaking a specialised process, appointed in terms of regulation 16(1) must – (a) be independent".

The reason for the exemption application is:

Both the Aurecon Engineering team and; the Aurecon Environment and Advisory Services team is involved with the different phases of the same project; which may be deemed to be "circumstances that may compromise the objectivity of the EAP" (Definition of independence: GN R.543).

The Department has decided to grant the exemption application.

Although both the Aurecon Engineering team and the Aurecon Environment and Advisory Services team is involved with the different phases of the same project, the applicant for the proposed project is SANBI and not Aurecon South Africa (Pty) Ltd. Therefore objectivity of the EAP will therefore not be compromised. The respective declaration forms for the EAP and/or any specialist input into the EIA process will thus be applicable and should be duly completed and signed.

DEVIATION REQUEST:

You have requested deviations from the provisions of the **Regulation 10 (2)(d)**.

The Department has decided to grant the deviation from this regulation.

Compliance with regulation 10(2)(a-c) is adequate.

You have further requested deviations from the provisions of the **Regulation 54 (7)(b) and Regulation 56(5) and (6)**.

The Department has decided not to grant the deviation from these regulations. You are still required to comply with the requirements of Regulation 54 to 57 of the EIA Regulations, 2010. The final report must be made available to registered I&APs and organs of state with jurisdiction over the proposed project at the same time it is submitted to the Department for decision making, with proof of such submission submitted to the Department.

In terms of regulation 10(2) of the Environmental Impact Assessment Regulations, 2010 (the Regulations), you are instructed to notify all registered interested and affected parties, in writing and within 12 (twelve) days of the date of this letter, of the Department's decision in respect of your **application for exemption** as well as the provisions regarding the submission of appeals that are contained in the Regulations.

Your attention is drawn to Chapter 7 of the Regulations, which prescribes the appeal procedure to be followed. This procedure is summarised in the attached document. Kindly include a copy of this document with the letter of notification to interested and affected parties.

Should the applicant or any other party wish to appeal any aspect of the decision a notice of intention to appeal must be lodged by all prospective appellants with the Minister, within 20 days of the date of this decision, by means of one of the following methods:

By facsimile: (012) 320 7539;

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

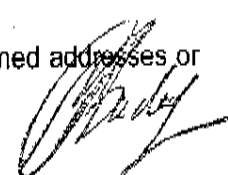
By hand: 2nd Floor, Fedsure Building, North Tower,
Cnr. Lilian Ngoyi (Van der Walt) and Pretorius Streets,
Pretoria.

If the applicant wishes to lodge an appeal, it must also serve a copy of the notice of intention to appeal on all registered interested and affected parties as well as a notice indicating where, and for what period, the appeal submission will be available for inspection, should you intend to submit an appeal.

Please include the Department (*Attention: Director: Integrated Environmental Authorisations*) in the list of interested and affected parties, notified through your notification letter to interested and affected parties, for record purposes.

Appeals must be submitted in writing to:

Mr Z Hassam: Director: Appeals and Legal Review, of this Department at the above mentioned addresses or fax number. Mr Hassam can also be contacted at:



Tel: (012) 310 3271

Email: AppealsDirectorate@environment.gov.za

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

Yours faithfully



Mr Ishaam Abader

Deputy Director-General: Legal, Authorisations, Compliance and Enforcement

Department of Environmental Affairs

Date:

2/07/2014

cc:	Ms Franci Gresse	Aurecon South Africa (Pty) Ltd	Tel: (021) 526 6022	Fax: (021) 526 9500
	Mr Briant Noncembu	Eastern Cape DEDEA	Tel: (043) 707 4000	Fax: (043) 748 2069
	Mr Khanyeli Maneli	Nkonkobe Local Municipality	Tel: (046) 645 7400	Fax: (046) 645 2562
	Mr Mpilo Mbambisa	Nelson Mandela Local Municipality	Tel: (041) 506 3208/9	Fax: (041) 506 2422
	Khaya Gashi	Elundini Local Municipality	Tel: (045) 932 8100	Fax: (045) 932 1094

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 EXEMPTION DECISION

APPLICANT	INTERESTED AND AFFECTED PARTIES (IAPs)
1. Receive exemption decision from the relevant Competent Authority (the Department of Environmental Affairs [DEA]).	1. Receive decision from Applicant/Consultant.
2. Within 12 days of date of the exemption decision notify all IAPs of the decision and draw their attention to their right to appeal against the exemption decision in terms of Chapter 7 of the Regulations.	2. N/A.
3. If you want to appeal against the exemption decision, submit a notice of intention to appeal within 20 days of the date of the exemption decision with the Minister of Water and Environmental Affairs (the Minister).	3. If you want to appeal against the exemption decision, submit a notice of intention to appeal within 20 days of the date of the exemption decision 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 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.

