

21 September 2016

Dear Interested and Affected Party

RE: NOTICE OF REFUSED ENVIRONMENTAL AUTHORISATION AND APPEAL PROCEDURE FOR THE PROPOSED DEVELOPMENT OF THREE TRANSMISSION LINES AND ASSOCIATED ELECTRICAL INFRASTRUCTURE (REFERRED TO AS KENHARDT PV 1 - TRANSMISSION LINE, KENHARDT PV 2 - TRANSMISSION LINE, AND KENHARDT PV 3 - TRANSMISSION LINE) TO SUPPORT THE THREE PROPOSED 75 MW SOLAR PHOTOVOLTAIC FACILITIES (KENHARDT PV 1, PV 2, AND PV 3), NORTH-EAST OF KENHARDT, NORTHERN CAPE PROVINCE (CSIR REFERENCE: EMS0102/SCATEC/2015; AND DEA REFERENCE: 14/12/16/3/3/1/1547 (KENHARDT PV 1 – TRANSMISSION LINE), DEA REFERENCE: 14/12/16/3/3/1/1546 (KENHARDT PV 2 – TRANSMISSION LINE), AND DEA REFERENCE: 14/12/16/3/3/1/1545 (KENHARDT PV 3 – TRANSMISSION LINE))

As a registered Interested and Affected Party (I&AP) on the project database, you have been informed that the Project Applicant intended to develop three transmission lines and associated electrical infrastructure (referred to as “Kenhardt PV 1 – Transmission Line, Kenhardt PV 2 – Transmission Line, and Kenhardt PV 3 – Transmission Line”) to support the three proposed 75 Megawatt (MW) Solar Photovoltaic (PV) power generation facilities (referred to as “Kenhardt PV 1, Kenhardt PV 2, and Kenhardt PV 3”) on the remaining extent of Onder Rugzeer Farm 168, approximately 80 km south of Upington and 30 km north-east of Kenhardt within the !Kheis Local Municipality, Northern Cape Province. The Project Applicant for the Kenhardt PV 1 – Transmission Line, Kenhardt PV 2 – Transmission Line, and Kenhardt PV 3 – Transmission Line projects is respectively Scatec Solar SA 330 (PTY) Ltd, Scatec Solar SA 350 (PTY) Ltd, and Scatec Solar SA 370 (PTY) Ltd (hereinafter referred to as Scatec Solar).

Scatec Solar appointed the Council for Scientific and Industrial Research (CSIR) to undertake the Environmental Assessment Process required for the abovementioned proposed projects. The proposed projects were assessed in terms of the National Environmental Management Act (Act 107 of 1998, as amended) (NEMA) and the 2014 NEMA Environmental Impact Assessment (EIA) Regulations promulgated in Government Gazette 38282 and Government Notice (GN) R982, R983, R984 and R985 on 8 December 2014. The finalised BA Reports for the abovementioned Kenhardt PV Transmission Line projects were submitted to the Competent Authority (i.e. the National Department of Environmental Affairs (DEA)) in June 2016 for decision-making.

As a registered I&AP on the database and in accordance with Regulation 4 (2) of the 2014 NEMA EIA Regulations, you are hereby notified that the National DEA have **refused** the Environmental Authorisation (EA) for the abovementioned Kenhardt PV 1 – Transmission Line, Kenhardt PV 2 – Transmission Line, and Kenhardt PV 3 – Transmission Line projects. The EA's are signed and dated 8 September 2016 and were issued to the Project Applicant and CSIR via email on 12 September 2016. The reasons for the decision are detailed in Annexure 1 of the EA, and attached as Appendix 1 of this correspondence. The reasons for refusal of the EA's are mainly based on the potential adverse threats posed by the refused three Solar PV EIA Projects (Kenhardt PV 1, PV 2 and PV 3) to the Square Kilometre Array (SKA) South Africa. The EA's (including the reasons for decision) can be downloaded from the project website (<http://www.csir.co.za/eia/ScatecSolarPV/>). A copy of the EA can also be provided to I&APs upon request, by contacting the CSIR Project Manager using the contact details provided above.

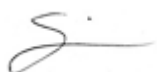
Your attention is drawn to Chapter 2 of the National Appeal Regulations published in GN R993 on 8 December 2014, and as amended in GN R205 on 12 March 2015, which prescribes the appeal procedure to be followed. Should you wish to appeal any aspect of the decision, an appeal must be submitted to the Appeal Administrator by the Appellant, and a copy thereof must be submitted to the Applicant, any registered I&AP and any Organ of State that has interest in the matter, within 20 days from the date that the notification of the decision was sent to the registered I&APs by the Applicant (i.e. within 20 days from 21 September 2016), via one of the following methods:

By Post: Private Bag X447, Pretoria, 0001, or
By Hand: Environment House, 473 Steve Biko Road, Arcadia, Pretoria, 0083

Appeals must be submitted in writing (in the form obtainable from the Appeal Administrator including all required supporting documents) to: Mr. Z Hassam, Director: Appeals and Legal Review, of the National DEA, using the addresses provided above. Mr. Hassam can also be contacted via telephone (012 399 9356) or email (Appealsdirector@environment.gov.za). All appeal documentation must include the abovementioned relevant DEA Reference Numbers. For additional information, a guideline on the Administration of Appeals (compiled by the DEA) can be accessed on the DEA website (<https://www.environment.gov.za/>).

Should you have any queries or require additional information please do not hesitate to contact the undersigned using the contact details provided above.

Sincerely,



Surina Laurie
Project Leader
CSIR Environmental Management Services



Rohaida Abed
Project Manager
CSIR Environmental Management Services

Kenhardt PV 1 – Transmission Line – DEA Reference: 14/12/16/3/3/1/1547

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 application form submitted on 29 March 2016 and acknowledged by the Department on 31 March 2016.
- b) The information contained in the Basic Assessment Report (BAR) dated June 2016 and received by this Department on 08 June 2016.
- c) The comments received during the Public Participation Process of the application and submitted as part of the BAR dated June 2016.
- d) Mitigation measures as proposed in the BAR dated June 2016 and the EMPr submitted as part of the BAR dated June 2016.
- e) Specialist studies submitted as part of the BAR dated June 2016 and received by this Department on 08 June 2016.
- 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

A summary of the issues which, in the Department's view, were of the most significance is set out below-

- a) Compliance of the BAR dated June 2016 and submitted on 08 June 2016 with Appendix 1 and Appendix 4 of GN R. 982 of 2014.
- b) The findings of all the specialist studies conducted and submitted as part of the BAR dated June 2016 along with their recommended mitigation measures.
- c) Description of the environment that may be affected by the activity and the manner in which the physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity.
- d) The location of the proposed development within the Karoo Central Astronomy Area and the significance of identified impacts to the Square Kilometre Array South Africa (SKA-SA).

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- e) Concerns raised and comments provided by the SKA-SA on the findings of the RFI Emissions study dated April 2016 for the proposed 75 MW Kenhardt PV 1 facility, for which a refusal of Environmental Authorisation was issued by the Department.
- f) The selection of location alternatives in terms of the EIA Regulations, 2014 and in relation to the specialist inputs.
- g) The cumulative impacts the proposed development will have in the area due to other Renewable Energy Facilities authorised.
- h) All legislation and guidelines that have been considered in the preparation of the BAR dated June 2016.
- i) Compliance of the BAR dated June 2016 and submitted on 08 June 2016 with Chapter 5 of GN R. 982 of 2014.

3. Findings

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

- a) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2014 for public involvement.
- b) The procedures followed for impact assessment is deemed adequate for the decision-making process.
- c) The main motivation provided for the proposed transmission powerlines and associated infrastructure is to support and enable the functioning of the proposed 75 MW Kenhardt PV 1 facility for which a refusal of Environmental Authorisation was issued by the Department.
- d) The RFI Emissions study conducted by MESA Solutions (Pty) Ltd, for the Kenhardt PV 1 facility for which a refusal of Environmental Authorisation was issued by the DEA, concluded that it cannot guarantee the efficiency of proposed mitigation measures to comply with the required SKA-SA levels.
- e) No new alternative locations for the proposed Kenhardt PV 1 facility, transmission powerline and associated infrastructure have been investigated, bearing in mind the concerns raised and recommendations made by the SKA-SA along with the findings of the RFI Emissions study for the Kenhardt PV 1 facility, for which a refusal of Environmental Authorisation was issued by the Department.
- f) The principles of the mitigation hierarchy have not been fully applied during the Environmental Impact Assessment process.
- g) It should be noted that the DEA authorised a total of approximately 231 photovoltaic solar facilities and associated infrastructure equivalent to 13378 MWs in the Northern Cape Province. There are also a number of renewable energy projects that have been authorised within the surrounding areas and are in less sensitive environments.

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- h) Given the potential adverse threats posed by the Kenhardt PV 1 facility to the SKA-SA, the lack of assessment of new location alternatives, the limitations of the RFI study for the Kenhardt PV 1 facility and the refusal of Environmental Authorisation issued for the Kenhardt PV 1 facility, the proposed development on the current site is not supported.

In view of the above, the competent authority is of the opinion that the proposed listed activities will conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities may not be mitigated to acceptable levels and should therefore be prevented altogether.

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- d) The location of the proposed development within the Karoo Central Astronomy Area and the significance of identified impacts to the Square Kilometre Array South Africa (SKA-SA).

- e) Concerns raised and comments provided by the SKA-SA on the findings of the RFI Emissions study dated April 2016 for the proposed 75 MW Kenhardt PV 2 facility, for which a refusal of Environmental Authorisation was issued by the Department.
- f) The selection of location alternatives in terms of the EIA Regulations, 2014 and in relation to the specialist inputs.
- g) The cumulative impacts the proposed development will have in the area due to other Renewable Energy Facilities authorised.
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- a) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2014 for public involvement.
- b) The procedures followed for impact assessment is deemed adequate for the decision-making process.
- c) The main motivation provided for the proposed transmission powerlines and associated infrastructure is to support and enable the functioning of the proposed 75 MW Kenhardt PV 2 facility for which a refusal of Environmental Authorisation was issued by the Department.
- d) The RFI Emissions study conducted by MESA Solutions (Pty) Ltd, for the Kenhardt PV 2 facility for which a refusal of Environmental Authorisation was issued by the DEA, concluded that it cannot guarantee the efficiency of proposed mitigation measures to comply with the required SKA-SA levels.
- e) No new alternative locations for the proposed Kenhardt PV 2 facility, transmission powerline and associated infrastructure have been investigated, bearing in mind the concerns raised and recommendations made by the SKA-SA along with the findings of the RFI Emissions study for the Kenhardt PV 2 facility, for which a refusal of Environmental Authorisation was issued by the Department.
- f) The principles of the mitigation hierarchy have not been fully applied during the Environmental Impact Assessment process.

- g) It should be noted that the DEA authorised a total of approximately 231 photovoltaic solar facilities and associated infrastructure equivalent to 13378 MWs in the Northern Cape Province. There are also a number of renewable energy projects that have been authorised within the surrounding areas and are in less sensitive environments.
- h) Given the potential adverse threats posed by the Kenhardt PV 2 facility to the SKA-SA, the lack of assessment of new location alternatives, the limitations of the RFI study for the Kenhardt PV 2 facility and the refusal of Environmental Authorisation issued for the Kenhardt PV 2 facility, the proposed development on the current site is not supported.

In view of the above, the competent authority is of the opinion that the proposed listed activities will conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities may not be mitigated to acceptable levels and should therefore be prevented altogether.

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- d) The location of the proposed development within the Karoo Central Astronomy Area and the significance of identified impacts to the Square Kilometre Array South Africa (SKA-SA).

- e) Concerns raised and comments provided by the SKA-SA on the findings of the RFI Emissions study dated April 2016 for the proposed 75 MW Kenhardt PV 3 facility, for which a refusal of Environmental Authorisation was issued by the Department.
- f) The selection of location alternatives in terms of the EIA Regulations, 2014 and in relation to the specialist inputs.
- g) The cumulative impacts the proposed development will have in the area due to other Renewable Energy Facilities authorised.
- h) All legislation and guidelines that have been considered in the preparation of the BAR dated June 2016.
- i) Compliance of the BAR dated June 2016 and submitted on 08 June 2016 with Chapter 5 of GN R. 982 of 2014.

3. Findings

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

- a) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2014 for public involvement.
- b) The procedures followed for impact assessment is deemed adequate for the decision-making process.
- c) The main motivation provided for the proposed transmission powerlines and associated infrastructure is to support and enable the functioning of the proposed 75 MW Kenhardt PV 3 facility for which a refusal of Environmental Authorisation was issued by the Department.
- d) The RFI Emissions study conducted by MESA Solutions (Pty) Ltd, for the Kenhardt PV 3 facility for which a refusal of Environmental Authorisation was issued by the DEA, concluded that it cannot guarantee the efficiency of proposed mitigation measures to comply with the required SKA-SA levels.
- e) No new alternative locations for the proposed Kenhardt PV 3 facility, transmission powerline and associated infrastructure have been investigated, bearing in mind the concerns raised and recommendations made by the SKA-SA along with the findings of the RFI Emissions study for the Kenhardt PV 3 facility, for which a refusal of Environmental Authorisation was issued by the Department.
- f) The principles of the mitigation hierarchy have not been fully applied during the Environmental Impact Assessment process.

- g) It should be noted that the DEA authorised a total of approximately 231 photovoltaic solar facilities and associated infrastructure equivalent to 13378 MWs in the Northern Cape Province. There are also a number of renewable energy projects that have been authorised within the surrounding areas and are in less sensitive environments.
- h) Given the potential adverse threats posed by the Kenhardt PV 3 facility to the SKA-SA, the lack of assessment of new location alternatives, the limitations of the RFI study for the Kenhardt PV 3 facility and the refusal of Environmental Authorisation issued for the Kenhardt PV 3 facility, the proposed development on the current site is not supported.

In view of the above, the competent authority is of the opinion that the proposed listed activities will conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities may not be mitigated to acceptable levels and should therefore be prevented altogether.