



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

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NEAS Reference: DEA/EIA/0001269/2012

DEA Reference: 14/12/16/3/3/2/355

Enquiries: Ms Fatima Rawjee

Telephone: 012-310-3002 Fax: 012-320-7539 E-mail: frawjee@environment.gov.za

Mr Neil van Heek
Naauw Poort Solar Energy (Pty) Ltd
P.O. Box 2505
SUNNINGHILL WEST
2072

Fax no: 086-719-4531

PER FACSIMILE / MAIL

Dear Mr van Niekerk

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: GN R.544, 545 & 546: CONSTRUCTION OF THE 75MW NAAUW POORT SOLAR ENERGY FACILITY NEAR NOUPOORT, NORTHERN CAPE PROVINCE

With reference to the above application, please be advised that the Department has decided to accept the environmental impact assessment report and grant authorisation. The environmental authorisation (EA) and reasons for the decision are attached herewith.

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 the EA, of the Department's decision in respect of your application 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 the EA, by means of one of the following methods:

By facsimile: 012 320 4431;
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

The authorised activity/ies shall not commence within twenty (20) days of the date of signature of the authorisation. Further, please note that the Minister may, on receipt of appeals against the authorisation or conditions thereof suspend the authorisation pending the outcome of the appeals procedure.

Yours sincerely



Mr Mark Gordon
Chief Director: Integrated Environmental Authorisations
Department of Environmental Affairs

Date: 30 April 2013

CC:	Ms Karen Jodas	Savannah Environmental (Pty) Ltd	Tel: 011-656-3237	Fax: 086-684-0547
	Mr E Botes	NC DE&NC	Tel: 053-807-7300	Fax: 053-807-7367
	Mr AC Mpela	Umsobomvu Local Municipality	Tel: 051-753-0777	Fax: 051-753-1918
	Mr S Malaza	Compliance Monitoring (DEA)	Tel: 012-310-3397	Fax: 012-320-5744

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 AN ENVIRONMENTAL AUTHORISATION (EA)

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



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Environmental Authorisation

In terms of regulation 36 of the Environmental Impact Assessment Regulations, 2010

**CONSTRUCTION OF THE 75 MW NAAUW POORT SOLAR ENERGY FACILITY NEAR
NOUPOORT, NORTHERN CAPE CAPE PROVINCE**

Umsobomvu Local Municipality

Authorisation register number:	14/12/16/3/3/2/355
NEAS reference number:	DEA/EIA/0001269/2012
Last amended:	First issue
Holder of authorisation:	NAAUW POORT SOLAR ENERGY (PTY) LTD
Location of activity:	NORTHERN CAPE PROVINCE: NAAUW POORT REMAINING EXTENT 1 OF 1, 10 KM SOUTH OF NOUPOORT

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 Department is satisfied, on the basis of information available to it and subject to compliance with the conditions of this environmental authorisation, that the applicant should be authorised to undertake the activities specified below.

Non-compliance with a condition of this authorisation may result in criminal prosecution or other actions provided for in the National Environmental Management Act, 1998 and the EIA regulations.

Details regarding the basis on which the Department reached this decision are set out in Annexure 1.

Activities authorised

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act 107 of 1998) and the Environmental Impact Assessment Regulations, 2010 the Department hereby authorises –

NAAUW POORT SOLAR ENERGY (PTY) LTD

with the following contact details –

Mr Neil van Heek

Naauw Poort Solar Energy (Pty) Ltd

P.O. Box 2505

SUNNINGHILL WEST

2072

Fax no: 086-719-4531

to undertake the following activities (hereafter referred to as "the activity") indicated in Listing Notices 1, 2 & 3 (GN R. 544, 545 & 546):

Listed activities	Activity/Project description
<p><u>GN R. 544 Item 10:</u> The construction of facilities or infrastructure for the transmission and distribution of electricity -</p> <p>(i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts.</p>	<p>The facility will require the construction of an overhead distribution power line, connecting to the Newgate/Ludlow line power line which traverses the site.</p>
<p><u>GN R. 544 Item 11:</u> The construction of:</p> <p>(x) Buildings exceeding 50 square metres in size; and</p> <p>(xi) infrastructure or structures covering 50 square metres or more</p> <p>where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.</p>	<p>Main access road will cross the drainage line.</p>
<p><u>GN R. 544 Item 18:</u> The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock from:</p> <p>(i) a watercourse.</p>	<p>Main access road will cross the drainage line.</p>
<p><u>GN R. 545 Item 1:</u> The construction of facilities or infrastructure, for the generation of electricity where the output is 20 megawatts or more.</p>	<p>The PV facility will have a generation capacity of up to 75MW.</p>
<p><u>GN R. 545 Item 15:</u> Physical alteration of undeveloped, vacant or derelict</p>	<p>The PV facility will occupy an area greater than 20 hectares for commercial electricity</p>



Listed activities	Activity/Project description
<p>land for residential, retail, commercial, recreational, industrial or institutional use where the total area to be transformed is 20 hectares or more; Except where such physical alteration takes place for:</p> <p>(i) Linear development activities. (ii) Agriculture or afforestation where activity 16 in this schedule will apply.</p>	<p>generation which will be sold to Eskom.</p>
<p><u>GN R. 546 Item 13:</u> The clearance of an area of 1 hectare or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation;</p> <p>(c) <u>In Eastern Cape, Free State, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape and Western Cape:</u></p> <p>ii. Outside urban areas.</p>	<p>An area of 1 ha or more of indigenous vegetation cover may need to be cleared.</p>
<p><u>GN R. 546 Item 16:</u> The construction of:</p> <p>iii. Buildings with a footprint exceeding 10 square metres in size;</p> <p>iv. Infrastructure covering 10 square metres or more where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.</p> <p>(a) <u>In Eastern Cape, Free State, KwaZulu-Natal, Gauteng, Limpopo, Mpumalanga, Northern Cape, Northwest and Western Cape:</u></p> <p>ii. Outside urban areas.</p>	<p>Buildings larger than 10 m² or 10 m² within 32 m of a watercourse may be required to be built.</p>

as described in the Environmental Impact Assessment Report (EIR) dated February 2013.

Department of Environmental Affairs
Environmental Authorisation Reg. No. 14/12/16/3/3/2/355
NEAS Reference Number: DEA/NEAS/0001269/2012

At GPS co-ordinates:

75 MW PV Facility	Latitude	Longitude
Office location	31°16'39.77"	24°55'59.51"

- for the establishment of a commercial photovoltaic solar energy facility (with a generating capacity of 75MW) with a development footprint of 275 ha on the remaining extent of Portion 1 of the Farm Naauw Poort, within the Umsobomvu Local Municipality in the Northern Cape Province, hereafter referred to as "the property".

The infrastructure associated with this facility includes:

- Arrays of photovoltaic (PV) panels either static or tracking, up to 4m in height.
- Mounting structure to be either rammed steel piles or piles with pre-manufactured concrete footings to support the PV panels.
- Cabling (1-2m deep) between the project components, to be lain underground where practical.
- Invertors (transformers) between the arrays.
- A new on-site substation (200m X 200m in extent) to evacuate the power from the facility into the Eskom grid via the Newgate/Ludlow 132 kV power line which traverses the site.
- The substation is proposed to be connected to a loop-in loop-out power line to the existing Newgate/Ludlow 132 kV power line. The power line will be up to 3 km in length with a servitude of ~ 36m.
- Internal access roads (up to 5m wide) and fencing (up to 30m in height).
- Workshop area (200m X 200m) for maintenance, storage, and.
- During construction (temporary infrastructure) such as a laydown areas will also be required. The temporary construction laydown area will occupy an area of ~ 280 ha.



Conditions of this Environmental Authorisation

Scope of authorisation

1. The preferred alternative is hereby approved.
2. Authorisation of the activity is subject to the conditions contained in this authorisation, which form part of the environmental authorisation and are binding on the holder of the authorisation.
3. The holder of the authorisation is responsible for ensuring compliance with the conditions contained in this environmental authorisation. This includes any person acting on the holder's behalf, including but not limited to, an agent, servant, contractor, sub-contractor, employee, consultant or person rendering a service to the holder of the authorisation.
4. The activities authorised may only be carried out at the property as described above.
5. Any changes to, or deviations from, the project description set out in this authorisation must be approved, in writing, by the Department before such changes or deviations may be effected. In assessing whether to grant such approval or not, the Department may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviations and it may be necessary for the holder of the authorisation to apply for further authorisation in terms of the regulations.
6. This activity must commence within a period of three (03) years from the date of issue of this authorisation. 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.
7. Commencement with one activity listed in terms of this authorisation constitutes commencement of all authorised activities.
8. The holder of an environmental authorisation must notify the competent authority of any alienation, transfer and change of ownership rights in the property on which the activity is to take place.
9. A request for an extension to the validity of this authorisation must be submitted to the Department of Environmental Affairs at least six months prior to the lapsing of such.

Notification of authorisation and right to appeal

10. The holder of the authorisation must notify every registered interested and affected party, in writing and within 12 (twelve) calendar days of the date of this environmental authorisation, of the decision to authorise the activity.
11. The notification referred to must –
 - 11.1. specify the date on which the authorisation was issued;
 - 11.2. inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the Environmental Impact Assessment Regulations, 2010;
 - 11.3. advise the interested and affected party that a copy of the authorisation will be furnished on request; and
 - 11.4. give the reasons of the competent authority for the decision.
12. The holder of the authorisation must publish a notice –
 - 12.1. informing interested and affected parties of the decision;
 - 12.2. informing interested and affected parties where the decision can be accessed; and
 - 12.3. drawing the attention of interested and affected parties to the fact that an appeal may be lodged against this decision in the newspaper(s) contemplated and used in terms of regulation 54(2)(c) and (d) and which newspaper was used for the placing of advertisements as part of the public participation process.

Management of the activity

13. The Environmental Management Programme (EMPr) submitted as part of the Application for EA is hereby approved. This EMPr must be implemented and adhered to.

Monitoring

14. The applicant must appoint a suitably qualified and experienced **independent** Environmental Control Officer (ECO) for the construction phase of the development that will have the responsibility to ensure that the mitigation/rehabilitation measures and recommendations referred to in this authorisation are implemented and to ensure compliance with the provisions of the EMPr.
 - 14.1. The ECO must be appointed before commencement of any authorised activity.

- 14.2. Once appointed, the name and contact details of the ECO must be submitted to the *Director: Compliance Monitoring* of the Department.
- 14.3. The ECO must keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
- 14.4. The ECO must remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is ready for operation.

Recording and reporting to the Department

15. All documentation e.g. audit/monitoring/compliance reports and notifications, required to be submitted to the Department in terms of this authorisation, must be submitted to the *Director: Compliance Monitoring* at the Department.
16. The holder of the authorisation must submit an environmental audit report to the Department within 30 days of completion of the construction phase (i.e. within 30 days of site handover) and within 30 days of completion of rehabilitation activities.
17. The environmental audit report must indicate the date of the audit, the name of the auditor and the outcome of the audit in terms of compliance with the environmental authorisation conditions as well as the requirements of the EMPr.
18. Records relating to monitoring and auditing must be kept on site and made available for inspection to any relevant and competent authority in respect of this development.

Commencement of the activity

19. The authorised activity shall not commence within twenty (20) days of the date of signature of the authorisation.
20. An appeal under section 43 of the National Environmental Management Act (NEMA), Act 107 of 1998 (as amended), does not suspend an environmental authorisation or exemption, or any provisions or conditions attached thereto, or any directive, unless the Minister, MEC or delegated organ of state directs otherwise.
21. Should you be notified by the Minister of a suspension of the authorisation pending appeal procedures, you may not commence with the activity until such time that the Minister allows you to commence with such an activity in writing.

Notification to authorities

22. Fourteen (14) days written notice must be given to the Department that the activity will commence. Commencement for the purposes of this condition includes site preparation. The notice must include a date on which it is anticipated that the activity will commence, as well as a reference number. This notification period may coincide with the notice of intent to appeal period.

Operation of the activity

23. Fourteen (14) days written notice must be given to the Department that the activity operational phase will commence.

Site closure and decommissioning

24. Should the activity ever cease or become redundant, the applicant shall undertake the required actions as prescribed by legislation at the time and comply with all relevant legal requirements administered by any relevant and competent authority at that time.

Specific conditions

25. All identified environmental sensitive areas must be avoided.
26. A final layout must be submitted to DEA for review and approval prior to commencing with construction.
27. The power lines must be marked with bird flappers to avoid the electrocution of birds.
28. Power lines that span drainage lines and water bodies must be marked with bird flight diverters on the earth wire of the line, five metres apart, alternating black and white. Bird flight diverters to be used must be in accordance with specialist recommendations.
29. Pylons must be placed a minimum of 50m outside river and stream banks.
30. A search and rescue must be carried out where threatened species are affected prior to the construction of the sub-station to recover valuable species that may be damaged in the construction phase.
31. Existing tracks/roads must be used as far as possible, and construction activities must be limited to the authorised site.

32. During construction, unnecessary disturbance to habitats must be strictly controlled and the footprint of the impact must be kept to a minimum.
33. Disturbed areas must be rehabilitated as soon as possible once construction is complete in an area.
34. A professional archaeologist must be appointed during all construction and development activities including vegetation clearing and the excavation activities to monitor and identify possible archaeological material remains and features that may occur below the surface and make further appropriate recommendations on removing and / or protecting the archaeological material remains and features.
35. During construction, a 20 m buffer zone must be erected around the stonewalling complex occurring in the south of the site so that the development activities do not negatively affect the features.
36. The stone packed features must be appropriately fenced and 20 m buffer zone established. The features occur within 10 m of the internal farm road and must be clearly demarcated so as to avoid any negative impact from the development activities.
37. A walk-through survey of the final power line tower positions must be undertaken by an ecologist, heritage specialist and avifauna specialist to determine any additional site-specific mitigation which should be implemented.
38. Before development can continue the regions need to be checked for the presence of bird nesting sites.
39. A buffer of 50 metres from the dry packed stone wall identified close to Corridor "option 1" must be implemented, and the feature is to be fenced-off to protect it from possible damage during construction of the proposed power line.
40. The establishment of exotic weeds must be effectively monitored during construction and eradicated within one month of being identified.
41. Construction must include appropriate design measures that allow surface and subsurface movement of water along drainage lines so as not to impede natural surface and subsurface flows. Drainage measures must promote the dissipation of storm water run-off.
42. An integrated waste management approach must be implemented that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste shall be disposed of at a landfill licensed in terms of section 20 (b) of the National Environment Management Waste Act, 2008 (Act 59 of 2008).

General

43. A copy of this authorisation and the approved EMPr must be kept at the property where the activity/ will be undertaken. The authorisation and approved EMPr must be produced to any authorised official of the Department who requests to see it and must be made available for inspection by any employee or agent of the holder of the authorisation who works or undertakes work at the property.
44. The holder of the authorisation must notify both the *Director: Integrated Environmental Authorisations* and the *Director: Compliance Monitoring* at the Department, in writing and within 48 (forty eight) hours, if any condition of this authorisation cannot be or is not adhered to. Any notification in terms of this condition must be accompanied by reasons for the non-compliance.
45. National government, provincial government, local authorities or committees appointed in terms of the conditions of this authorisation or any other public authority shall not be held responsible for any damages or losses suffered by the applicant or his successor in title in any instance where construction or operation subsequent to construction be temporarily or permanently stopped for reasons of non-compliance by the applicant with the conditions of authorisation as set out in this document or any other subsequent document emanating from these conditions of authorisation.

Date of environmental authorisation: 30 APRIL 2013



Mr Mark Gordon

**Chief Director: Integrated Environmental Authorisations
Department of Environmental Affairs**

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 EIR dated February 2013;
- b) The comments received from interested and affected parties as included in the EIR dated February 2013;
- c) Mitigation measures as proposed in the EIR dated February 2013 and the EMPr;
- d) The information contained in the specialist studies contained within Appendix E, F, G, H, I, J and of the EIR dated February 2013; and
- e) 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 findings of all the specialist studies conducted and their recommended mitigation measures.
- b) The EIR dated February 2013 identified all legislation and guidelines that have been considered in the preparation of the EIR dated February 2013.
- c) The methodology used in assessing the potential impacts identified in the EIR dated February 2013 and the specialist studies have been adequately indicated.
- d) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2010 for public involvement.

3. Findings

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

- a) The identification and assessment of impacts are detailed in the EIR dated February 2013 and sufficient assessment of the key identified issues and impacts have been completed.
- b) The procedure followed for impact assessment is adequate for the decision-making process.
- c) The proposed mitigation of impacts identified and assessed adequately curtails the identified impacts.
- d) The information contained in the EIR dated February 2013 is accurate and credible.
- e) EMPr measures for the pre-construction, construction and rehabilitation phases of the development were proposed and included in the EIR and will be implemented to manage the identified environmental impacts during the construction process.

In view of the above, the Department is satisfied that, subject to compliance with the conditions contained in the environmental authorisation, the proposed activity will not conflict with the general objectives of integrated environmental management laid down in Chapter 5 of the National Environmental Management Act, 1998 and that any potentially detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable levels. The environmental authorisation is accordingly granted.