

APPENDIX B
AUTHORITY CORRESPONDENCE

Jana de Jager

From: Fiona Grimett <FGRIMETT@dffe.gov.za>
Sent: 11 November 2021 17:06
To: Jo-Anne Thomas
Cc: Jana de Jager; Matlhodi Mogorosi; Sindiswa Dlomo
Subject: PP Plan Approval: Phakwe Richards Bay Gas Power 3 Combined Cycle Power Plant, KwaZulu-Natal
Attachments: PP Plan PRBGP3 CAPP-14-23.pdf

Subject: Approval of Public Participation (PP) Plan for the proposed application for environmental authorisation for the construction and operation of the 2000MW Phakwe Richards Bay Gas Power 3 Combined Cycle Power Plant within the Richards Bay Industrial Development Zone, Umthlathuze Local Municipality, Kwazulu Natal Province (Pre-application reference: 2021-11-0006)

Dear Ms Thomas

The attached Public Participation (PP) Plan for the proposed 2000MW Phakwe Richards Bay Gas Power 3 Combined Cycle Power Plant within the Richards Bay Industrial Development Zone, Umthlathuze Local Municipality, Kwazulu Natal Province, received by this Department on 08 November 2021, refers.

Based on the information provided, this Department decided to **approve** the PP Plan for the project. You may proceed with the PP process in accordance with the tasks contemplated in the PP plan. Should you wish to deviate from the submitted PP Plan, the amended PP Plan must be submitted to the Department for approval prior commencement.

A copy of the PP Plan and this approval must be submitted as part of the application form when the application is lodged.

Also note that submission of a PP Plan and approval thereof do not negate your responsibility to comply with the requirements for public participation in terms of Regulations 39, 40, 41, 42, 43 & 44 of the EIA Regulations 2014, as amended.

Regards,

Fiona Grimett
Designation: Assistant Director: National Infrastructure Projects
Department of Forestry, Fisheries and the Environment
Chief Directorate: Integrated Environmental Authorisations
Directorate: National Infrastructure Development: National Infrastructure Projects
Tel: 012 399 9393
Email: fgrimett@dffe.gov.za

From: Jana de Jager <Jana@savannahsa.com>
Sent: Thursday, 11 November 2021 12:44
To: Matlhodi Mogorosi <MMOGOROSI@dffe.gov.za>
Cc: Fiona Grimett <FGRIMETT@dffe.gov.za>; Sindiswa Dlomo <SDLOMO@dffe.gov.za>
Subject: RE: 2021-11-0006

Dear Matlhodi

Your assistance is greatly appreciated, as we are aiming to submit the application for Environmental Authorisation by tomorrow.

Thank you & kind regards

SAWEA Award for Leading Environmental Consultant on Wind Projects in 2013 & 2015

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From: Matlhodi Mogorosi <MMOGOROSI@dffe.gov.za>
Sent: 11 November 2021 08:42
To: Jana de Jager <Jana@savannahsa.com>
Cc: Fiona Grimett <FGRIMETT@dffe.gov.za>; Sindiswa Dlomo <SDLOMO@dffe.gov.za>
Subject: Re: 2021-11-0006

Dear Jana,

It is noted that the pre-application meeting request is to have the PP Plan approved. The PP plan is being considered; approval will be communicated to you in due course.

Regards

Matlhodi Mogorosi

Department of Forestry, Fisheries and the Environment

Directorate: National Infrastructure Development

Environment House

473 Steve Biko Rd

ARCADIA

PRETORIA

0001

From: Jana de Jager <Jana@savannahsa.com>
Sent: Thursday, November 11, 2021 7:59 AM
To: Matlhodi Mogorosi <MMOGOROSI@dffe.gov.za>
Cc: Fiona Grimett <FGRIMETT@dffe.gov.za>; Sindiswa Dlomo <SDLOMO@dffe.gov.za>
Subject: FW: 2021-11-0006

Dear Matlhodi

As indicated in the pre-application request a meeting is not specifically require however, kindly note that we urgently require a decision on the PP plan.

Your assistance in this regard will be greatly appreciated.

Kind regards



Jana de Jager
Environmental Consultant

t: +27 (0)11 656 3237
c: +27 (0)81 444 3432
f: +27 (0) 86 684 0547

e: jana@savannahsa.com

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From: EIA Applications <EIAApplications@dffe.gov.za>
Sent: 10 November 2021 12:22
To: Matlhodi Mogorosi <MMOGOROSI@dffe.gov.za>
Cc: Fiona Grimett <FGRIMETT@dffe.gov.za>; Sindiswa Dlomo <SDLOMO@dffe.gov.za>; Jana de Jager <Jana@savannahsa.com>
Subject: 2021-11-0006

Dear Matlhodi.

Please note that you have been allocated an application:

Type of Application: Pre-Application Meeting Request;
Reference Number: 2021-11-0006;
Date Received: 08/11/2021;
Action Required: Decide on meeting request.

Kindly let Ephron know which date the meeting is to be held, if it will be set.

*EAP/Applicant: please use this reference number when submitting the application for EA/amendment application (page 1 of the application form), as well as attach the approved PP Plan if the application requires a PP process.

EIA Applications

Integrated Environmental Authorisations
Department of Forestry, Fisheries and the Environment

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From: Jana de Jager [<mailto:Jana@savannahsa.com>]

Sent: Monday, 08 November 2021 16:23

To: EIA Applications <ElApplications@dffe.gov.za>

Cc: Jo-Anne Thomas <joanne@savannahsa.com>

Subject: Pre-Application Request & PP Plan for Approval - Phakwe Richards Bay Gas Power 3 CCPP

Good day

Kindly find attached the pre-application request form including the Public Participation Plan for the proposed Phakwe Richards Bay Gas Power 3 Combined Cycle Power Plant, Richards Bay, KwaZulu-Natal.

As indicated in the pre-application request a pre-application meeting is not specifically required and the purpose of the application is for the Department to consider the details of the project and the Public Participation Plan.

Please confirm receipt of the request.

Kindly advise should you require any further information. Thank you.

Kind regards



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Jana de Jager
Environmental Consultant

e: jana@savannahsa.com

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the POPI Act and / or relevant legislation providing appropriate security safeguards for the processing of personal information of others.

Jana de Jager

From: Brenda Ton
Sent: Monday, 17 January 2022 08:23
To: Jana de Jager
Cc: Savannah Public Process
Subject: FW: 14/12/16/3/3/2/2117 (SE2662)

Hi Jana,

Please see below email acknowledgement.

Thank you and kind regards,

Brenda Ton

Office & Administrator Manager | Savannah Environmental (Pty) Ltd
Tel: +27 (0)11 656 3237 | Fax: +27 (0)86 684 0547

[SAWEA Award for Leading Environmental Consultant for Wind Projects in 2013 & 2015](#)

From: Ephron Maradwa <EMaradwa@dffe.gov.za>
Sent: Sunday, 16 January 2022 20:58
To: Brenda Ton <Brenda@savannahsa.com>
Cc: Matlhodi Mogorosi <MMOGOROSI@dffe.gov.za>; Salome Mambane <SMAMBANE@dffe.gov.za>; EIAAdmin <EIAAdmin@dffe.gov.za>
Subject: 14/12/16/3/3/2/2117

Dear Brenda

14/12/16/3/3/2/2117

ACKNOWLEDGEMENT OF RECEIPT OF THE FINAL SCOPING REPORT AND AMENDED APPLICATION FORM FOR THE PROPOSED THE CONSTRUCTION AND OPERATION OF THE PHAKWE RICHARDS BAY GAS POWER 3 COMBINED CYCLE POWER PLANT (CCPP), RICHARDS BAY, KWAZULU NATAL PROVINCE.

The Department confirms having received the final Scoping Report and Amended Application Form for the abovementioned project on 13 January 2022. You have submitted these documents to comply with the National Environmental Management Act, 1998(Act No. 107 of 1998) and the Environmental Impact Assessment (EIA) Regulations, 2014, as amended

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

Kindly quote the abovementioned reference number in any future correspondence in respect of the application.

EIA Applications

Integrated Environmental Authorisations
Department of Forestry, Fisheries and the Environment

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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: 14/12/16/3/3/2/2117

Enquiries: Matlhodi Mogorosi

Telephone: (012) 399 9388 **E-mail:** MMogorosi@dffe.gov.za

Ms Jo-Anne Thomas
Savannah Environmental (Pty) Ltd
PO Box 148
SUNNINGHILL
2157

Telephone Number: (011) 656 3237
Email Address: joanne@savannahsa.com

PER MAIL / E-MAIL

Dear Ms Thomas

ACCEPTANCE OF THE SCOPING REPORT FOR THE PROPOSED PHAKWE RICHARDS BAY GAS POWER 3 COMBINED CYCLE POWER PLANT (CCPP) AND ASSOCIATED INFRASTRUCTURE WITHIN THE RICHARDS BAY IDZ PHASE 1F, RICHARDS BAY, CITY OF UMHLATHUZE LOCAL MUNICIPALITY, KWAZULU-NATAL PROVINCE

The final Scoping Report (SR) and the Plan of Study for Environmental Impact Assessment dated January 2022 and received by the Department on 13 January 2022, refer.

The Department has evaluated the submitted final SR and the Plan of Study for Environmental Impact Assessment dated January 2022 and is satisfied that the documents comply with the minimum requirements of the Environmental Impact Assessment (EIA) Regulations, 2014, as amended. The FSR is hereby accepted by the Department in terms of Regulation 22(a) of the EIA Regulations, 2014, as amended.

You may proceed with the environmental impact assessment process in accordance with the tasks contemplated in the Plan of Study for Environmental Impact Assessment as required in terms of the EIA Regulations, 2014, as amended.

In addition, the following amendments and additional information are required for the EIAR:

(a) Listed Activities

- (i) The EIAR must provide an assessment of the impacts and mitigation measures for each of the listed activities applied for.
- (ii) The listed activities represented in the EIAR and the application form must be the same and correct.
- (iii) The EIAR must assess the correct sub listed activity for each listed activity applied for. Activity 15 of Listing Notice 3 has been applied for even though the geographical area in which the activity is proposed (KwaZulu-Natal Province) is not part of the geographical areas listed in Listing Notice 3 for this particular activity. This activity may not need to be applied for, given that it is proposed in the KwaZulu-Natal Province. Kindly confirm this and amend the application form accordingly.
- (iv) Please also ensure that the potential impacts on the affected Critical Biodiversity Areas indicated in Listing Notice 3 are fully assessed in the EIAR.

(b) Public Participation

- (i) Please ensure that comments from all relevant stakeholders are submitted to the Department with the EIAr. This includes but is not limited to the KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs, the KwaZulu-Natal Department of Agriculture and Rural Development, the Department of Water and Sanitation, Ezemvelo KZN Wildlife, AMAFA, SANRAL, Transnet, Richards Bay Industrial Zone, Eskom, the City of uMhlatuze Local Municipality, the King Cetshwayo District Municipality, the relevant Atmospheric Air Emission Licence (AEL) Authority, the South African Civil Aviation Authority, the Department of Environment, Forestry and Fisheries: Directorates: Biodiversity and Conservation (BCAdmin@environment.gov.za), Climate Change, Air Quality and Protected Areas. Furthermore, ensure that the management of the three schools (i.e., Little Junior, Batesda Primary School and Batesda High School) identified to be in close proximity to the proposed development is consulted.
- (ii) Please ensure that all issues raised and comments received on the draft SR and draft EIAr from registered I&APs and organs of state which have jurisdiction in respect of the proposed activity are adequately addressed in the final EIAr. Proof of correspondence with the various stakeholders must be included in the final EIAr. Should you be unable to obtain comments, proof must be submitted to the Department of the attempts that were made to obtain comments. The Public Participation Process must be conducted in terms of the approved public participation plan and Regulation 39, 40, 41, 42, 43 & 44 of the EIA Regulations 2014, as amended.
- (iii) A comments and response trail report (C&R) must be submitted with the final EIAr. The C&R report must incorporate all comments (pre and post submission of the draft EIAr) received for this development. The C&R report must be a separate document from the main report and the format must be in the table format which reflects the details of the I&APs and date of comments received, actual comments received, and response provided. Please ensure that comments made by I&APs are comprehensively captured (copy verbatim if required) and responded to clearly and fully. Please note that a response such as "Noted" is not regarded as an adequate response to I&APs comments.

(c) Alternatives

- (i) Please ensure that the EIAr includes a description of each of the preferred alternative types and provides detailed motivation on why it is preferred.
- (ii) The identification and assessment of alternatives must also include the transportation routes to be used for the proposed development. The City of uMhlatuze Local Municipality must be consulted in the identification of these routes, as the municipality indicated in their comments that route options through the Richards Bay CBD/town are not supported.

(d) Project Scope and Coordinates

- (i) The EIAr must provide the following:
 - Clear indication of the envisioned area for the proposed Gas to Power facility, as well as all associated infrastructure should be mapped at an appropriate scale.
 - Clear description of all associated infrastructure (locations, lengths, widths and/or capacities). This description must include, but is not limited to the following:
 - Ancillary infrastructure; and
 - Electrical and service infrastructure forming part of the application.
- (ii) The EIAr must provide the corner coordinate points for the proposed development site, as well as the start, middle and end point of any linear activities.

(e) Layout & Sensitivity Maps

- (i) A copy of the final preferred layout map. All available biodiversity information must be used in the finalisation of the layout map. Existing infrastructure must be used as far as possible e.g. roads. The layout map must indicate the following:

- Permanent laydown area footprint;
 - Internal roads indicating width;
 - Location of access and internal roads;
 - All existing infrastructure on the site, especially railway lines and roads;
 - Buildings, including accommodation (if any);
 - Buffer areas; and
 - All “no-go” areas.
- (ii) An environmental sensitivity map indicating environmental sensitive areas and features identified during the assessment process e.g., CBAs, heritage sites, wetlands, drainage lines etc. that will be affected by the facility and its associated infrastructure.
- (iii) A map combining the final layout map superimposed (overlain) on the environmental sensitivity map.

(f) Specialist assessments

- (i) Specialist studies to be conducted must provide a detailed description of their methodology, as well as indicate the locations and descriptions of the development footprint, and all other associated infrastructures that they have assessed and are recommending for authorisations. Specialist assessments must be conducted in accordance with the Protocols.
- (ii) The specialist studies must also provide a detailed description of all limitations to their studies. All specialist studies must be conducted in the right season and providing that as a limitation, will not be accepted.
- (iii) Please note that the Department considers a ‘no-go’ area, as an area where no development of any infrastructure is allowed; therefore, no development of associated infrastructure including access roads is allowed in the ‘no-go’ areas.
- (iv) Should the specialist definition of ‘no-go’ area differ from the Department’s definition; this must be clearly indicated. The specialist must also indicate the ‘no-go’ area’s buffer if applicable.
- (v) All specialist studies must be final, and provide detailed/practical mitigation measures for the preferred alternative and recommendations, and must not recommend further studies to be completed post EA.
- (vi) Should the appointed specialists specify contradicting recommendations, the EAP must clearly indicate the most reasonable recommendation and substantiate this with defensible reasons; and where necessary, include further expertise advice.
- (vii) You are reminded that the Climate Change Impact Assessment must assess the impacts of the development on climate change and vice versa, and accordingly must consider both mitigation and adaptation measures to climate change.
- (viii) The Department’s screening tool identified the requirement for a geotechnical and hydrology assessment. The final SR does not indicate if these assessments will be provided in the EIAR. Please ensure that these assessments are included in the EIAR. Alternatively, sufficient motivation must be provided for the assessment not being undertaken, including the site sensitivity verification required by the Protocols.
- (ix) The Department’s screening tool identified the civil aviation theme to be of high sensitivity, due to the site being within 8km of other civil aviation aerodrome. The final SR does not indicate if impacts on civil aviation will be assessed in the EIAR. You are required to consult with the Civil Aviation Authority (CAA) and provide a Civil Aviation Compliance Statement in the EIAR, per the requirements of the Protocols, due to the theme having a high sensitivity rating in the Department’s Screening Tool. Alternatively, sufficient motivation must be provided for the assessment not being undertaken, including the site sensitivity verification required by the Protocols.

(g) Cumulative Assessment

- (i) Regarding cumulative impacts:
- Clearly defined cumulative impacts and where possible the size of the identified impact must be quantified and indicated, i.e., hectares of cumulatively transformed land.
 - A detailed process flow must be provided to indicate how the specialist’s recommendations, mitigation measures and conclusions from the various similar developments in the area were taken into

consideration in the assessment of cumulative impacts and when the conclusion and mitigation measures were drafted for this project.

- Identified cumulative impacts associated with the proposed development must be rated with the significance rating methodology used in the process.
- The significance rating must also inform the need and desirability of the proposed development.
- A cumulative impact environmental statement must be provided on whether the proposed development must proceed.

(h) Environmental Management Programme (EMPr)

- (i) Please ensure that the mitigation measures specified in the EIAR and specialist reports are incorporated into the EMPr. In addition, ensure that the EMPr complies with the content of the EMPr in terms of Appendix 4 of the EIA Regulations, 2014, as amended.
- (ii) Please also include in the EMPr, a recommended frequency for the auditing of compliance with the conditions of the EA and EMPr, and for the submission of such compliance reports to the competent authority.

(i) General

- (i) The EIAR must provide the technical details for the proposed facility in a table format as well as their description and/or dimensions.
- (ii) It is noted that the electrical grid infrastructure and gas pipeline for the facility are to be applied for separately. These components should ideally be assessed holistically together with the gas power plant. The gas power plant, if approved, would therefore not be allowed to commence, without these other authorisations also being in place. The applicant is advised to take this into consideration in the planning and timing of the project.
- (iii) Confirmation of the availability of services (e.g., sewage, water etc. if required) must be included in the EIAR.
- (iv) Should a Water Use License be required, proof of application for a license needs to be submitted.

The applicant is hereby reminded to comply with the requirements of Regulation 45 of GN R982 of 04 December 2014, as amended, with regard to the time period allowed for complying with the requirements of the Regulations.

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 Sabelo Malaza
Chief Director: Integrated Environmental Authorisations
Department of Forestry, Fisheries and the Environment
Signed by: Ms Sindiswa Dlomo
Designation: Deputy Director: National Infrastructure Projects
Date: 24/02/2022

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|-----|-----------|------------------------------------|---|
| cc: | J Tenyane | Richards Bay Gas Power 3 (Pty) Ltd | Email: thabiso@phakwegroup.co.za |
|-----|-----------|------------------------------------|---|

19 April 2022

Department of Forestry, Fisheries and the Environment
Environment House
473 Steve Biko Street
Arcadia
Pretoria

Attention: Matlhodi Mogorosi

ENVIRONMENTAL IMPACT ASSESSMENT (EIA) FOR THE PROPOSED PHAKWE RICHARDS BAY GAS POWER 3 COMBINED CYCLE POWER PLANT (CCPP) AND ASSOCIATED INFRASTRUCTURE WITHIN THE RICHARDS BAY IDZ PHASE 1F, RICHARDS BAY, CITY OF UMHLATHUZE LOCAL MUNICIPALITY, KWAZULU-NATAL PROVINCE

(DFFE REFERENCE: 14/12/16/3/3/2/2117)

Request for an extension of the regulated timeframes in accordance with the 2014 EIA Regulations (GNR 326)

Dear Ms Mogorosi,

Savannah Environmental (Pty) Ltd is managing an Environmental Impact Assessment (EIA) process in support of an application for an Environmental Authorisation for the proposed Phakwe Richards Bay Gas Power 3 Combined Cycle Power Plant. The EIA Process is being conducted in accordance with the National Environmental Management Act (No. 107 of 1998) (NEMA), and the 2014 EIA Regulations (as amended) (GNR 326).

A Scoping Report was prepared by Savannah Environmental and made available for a 30-day public review period from Friday, 12 November 2021 until Monday, 13 December 2021. All comments and issues received during the 30-day review period were recorded, included, and (as far as possible) addressed within a Final Scoping Report which was submitted to the DFFE on 13 January 2022 and accepted on 24 February 2022.

Extensive comments were received during the Scoping Phase from stakeholders, such as Centre for Environmental Rights, GroundWorks, and the Richard's Bay Air Quality Air Association. Subsequently, several technical aspects related to the facility layout had to be investigated by the Applicant to provide specialists with the appropriate quantitative information required to inform the comprehensive studies required for a project of this nature.

As a result of the extensive correspondence required regarding the technical information, which were not anticipated by the Applicant or the EIA team, specialists were only provided with the comprehensive information required for modelling and quantitative assessments mid-March 2022. In addition, following the receipt of the required information the project team was informed of a further appeal brought forward by GroundWorks for the Richards Bay Power 2 project on 24 March of 2022. It was subsequently recommended that several of the specialist studies, such as climate change, air quality and MHI, undertake additional modelling and analysis to ensure that the issues raised in the appeals on gas to power projects are considered as comprehensively as possible, as these assessments are critical to understanding the acceptability of the project from an environmental perspective. Furthermore, given the appeals raised on gas to power projects additional public participation and stakeholder engagement is envisaged for the EIA Phase for the Phakwe Richards Bay Gas Power 3 CCPP to ensure all stakeholder issues are adequately recorded.

Due to the above-mentioned unforeseen circumstances, the project schedule has been affected which will influence the release date of the EIA Report for public review, as well as the submission of the Final EIA Report to DFFE for decision-making. The Applicant and specialist consulting team are therefore not in a position to provide the Competent Authority with the comprehensive information required to make an informed decision on the project within the prescribed timeframes.

Regulation 23(1) of the 2014 EIA Regulations (GNR 326) states that:

"The applicant must within 106 days of the acceptance of the Scoping Report submit to the Competent Authority –

(a) An Environmental Impact Assessment Report inclusive of any specialist reports, and an EMPr, which must have been subjected to a public participation process of at least 30 days and which reflects the incorporation of comments received, including any comments of the competent authority."

Furthermore, Regulation 3(7) of the 2014 EIA Regulations of 2014 (GNR 326) states that:

"In the event where the scope of work must be expanded based on the outcome of an assessment done in accordance with these Regulations, which outcome could not be anticipated prior to the undertaking of the assessment, or in the event where exceptional circumstances can be demonstrated, the competent authority may, prior to the lapsing of the relevant prescribed timeframe, in writing, extend the relevant prescribed timeframe and agree with the applicant on the length of such extension."

Based on the sensitive and technical nature of the project, the ongoing appeals related to similar gas to power projects, and the extensive consultation and stakeholder engagement envisaged during the EIA phase, Savannah Environmental believes it is prudent to provide the DFFE with a comprehensive and robust EIA Report, inclusive of all information requirements identified through the Scoping Phase and EIA process to date, as well as that identified from appeals submitted for similar projects. The Applicant therefore formally requests the consideration of an extension of the prescribed timeframes for the Phakwe Richards Bay Gas Power 3 CCPP by the Competent Authority by a period of 50 days, i.e., that the Final EIA Report be submitted to the DFFE 156 days after the acceptance of Scoping was received by the applicant. Such an extension is considered to be sufficient in terms of the nature of the proposed project and the abovementioned circumstances; and will ensure a complete assessment of all potential impacts associated with the project as well as

a comprehensive public participation process, which would ultimately allow for more informed decision-making by DFFE.

Kindly acknowledge receipt of the request for an extension of the regulated timeframes and provide a response regarding the request.

Kind regards,

Jo-Anne Thomas

Environmental Assessment Practitioner (EAP)

Savannah Environmental





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: 14/12/16/3/3/2/2117

Enquiries: Ms Matthodi Mogorosi

Telephone: (012) 399 9388 **E-mail:** MMogorosi@dffe.gov.za

Ms Jo-Anne Thomas
Savannah Environmental (Pty) Ltd
PO Box 148
SUNNINGHILL
2157

Telephone Number: (011) 656 3237
Email Address: joanne@savannahsa.com

PER E-MAIL / MAIL

Dear Ms Thomas

APPROVAL OF THE REQUEST IN TERMS OF REGULATION 3(7) OF THE EIA REGULATIONS, 2014, AS AMENDED FOR THE PROPOSED PHAKWE RICHARDS BAY GAS POWER 3 COMBINED CYCLE POWER PLANT (CCPP) AND ASSOCIATED INFRASTRUCTURE WITHIN THE RICHARDS BAY IDZ PHASE 1F, RICHARDS BAY, CITY OF UMHLATHUZE LOCAL MUNICIPALITY, KWAZULU-NATAL PROVINCE

The application for Environmental Authorisation and draft Scoping Report (SR) received by this Department on 12 November 2021, the comments on the draft SR dated 10 December 2021, the final SR received by this Department on 13 January 2022, the acceptance of the final SR by this Department dated 24 February 2022, your request for extension in terms of Regulation 3(7) of the EIA Regulations, 2014, as amended dated 19 April 2022 and received by the Department on 19 April 2022, and the acknowledgement thereof on 20 April 2022, refer.

This Department commented on the draft SR on 10 December 2021, accepted the final SR on 24 February 2022, and is awaiting an Environmental Impact Assessment Report (EIAR) which must be submitted to this Department in terms of Regulation 23(1)(a) of the EIA Regulations, 2014, as amended.

This Department received correspondence in the form of a letter from Savannah Environmental (Pty) Ltd dated 19 April 2022 requesting an extension of the prescribed timeframes by a period of fifty (50) days within which the final EIAR is to be submitted to the Department.

The motivation provided is that extensive comments were received during the Scoping Phase from stakeholders, such as Centre for Environmental Rights, GroundWorks, and the Richard's Bay Air Quality Air Association. Subsequently, several technical aspects related to the facility layout had to be investigated by the applicant to provide specialists with the appropriate quantitative information required to inform the comprehensive studies required for a project of this nature. As a result of the extensive correspondence required regarding the technical information, which were not anticipated by the applicant or the EIA team, specialists were only provided with the comprehensive information required for modelling and quantitative assessments mid-March 2022. In addition, following the receipt of the required information the project team was informed of a further appeal brought forward by GroundWorks for the Richards Bay Power 2 project on 24 March of 2022. As a result of the aforementioned appeal, it was recommended that several of the specialist

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studies, such as climate change, air quality and MHI, undertake additional modelling and analysis to ensure that the issues raised in the appeals on Gas to Power Projects are considered as comprehensively as possible, as these assessments are critical to understanding the acceptability of the project from an environmental perspective. Furthermore, given the appeals raised on gas to power projects additional public participation and stakeholder engagement is envisaged for the EIA Phase for the Phakwe Richards Bay Gas Power 3 CCPP to ensure all stakeholder issues are adequately recorded.

Due to the above-mentioned unforeseen circumstances, the project schedule has been affected and this will influence the release date of the EIA Report for public review, as well as the submission of the Final EIA Report to DFFE for decision-making. The applicant and specialist consulting team are currently not able to provide the Competent Authority with the comprehensive information required to make an informed decision on the project within the prescribed timeframes.

Regulation 3(7) of the EIA Regulations, 2014, as amended states that *"In the event where the scope of work must be expanded based on the outcome of an assessment done in accordance with these Regulations, which outcome could not be anticipated prior to the undertaking of the assessment, or in the event where exceptional circumstances can be demonstrated, the competent authority may, prior to the lapsing of the relevant prescribed timeframe, in writing, extend the relevant prescribed timeframe and agree with the applicant on the length of such extension."*

The EAP requested an extension in the timeframe to submit the final EIAR in 156 days after the acceptance of the final SR, which the EAP deems to be sufficient time to enable specialists to accurately assess the impacts and update their studies and provide the EAP within enough time to conduct a Public Participation process on the draft EIAR before submitting the final EIAR to the Department.

Based on the motivation provided by the EAP, this Department has decided to grant the extension of the timeframes to submit the final EIAR in 156 days after acceptance of the final SR. As such the Final EIAR must be submitted **on or before Monday, 08th of August 2022**.

Failure to submit the final EIAR on or before the above specified period will result in the applications lapsing in terms of Regulation 45.

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.

Should you have any queries or wish to discuss the points raised above, please do not hesitate to contact our offices.

Yours faithfully



Ms Millicent Solomons

**Chief Director (Acting): Integrated Environmental Authorisations
Department of Forestry, Fisheries and the Environment**

Letter signed by: Mr Vusi Skosana

Designation: Director: National Infrastructure Development

Date: 10 May 2022

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| cc: | J Teyane | Richards Bay Gas Power 3 (Pty) Ltd | Email: thabiso@phakwegroup.co.za |
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forestry, fisheries & the environment

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

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DFFE Reference: 14/12/16/3/3/2/2117

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Ms Jo-Anne Thomas
Savannah Environmental (Pty) Ltd
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SUNNINGHILL
2157

Telephone Number: (011) 656 3237
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PER MAIL / E-MAIL

Dear Ms Thomas

COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT ASSESSMENT REPORT FOR THE PROPOSED PHAKWE RICHARDS BAY GAS POWER 3 COMBINED CYCLE POWER PLANT (CCPP) AND ASSOCIATED INFRASTRUCTURE WITHIN THE RICHARDS BAY IDZ PHASE 1F, RICHARDS BAY, CITY OF UMHLATHUZE LOCAL MUNICIPALITY, KWAZULU-NATAL PROVINCE

The Application for Environmental Authorisation and Draft Environmental Impact Assessment Report (EIAr) received by the Department on 12 November 2021 and 05 June 2022, respectively, refer.

This letter serves to inform you that the following information must be included in the final EIAr:

(a) Specific comments

- Recommendations provided by specialist reports must be considered and used to inform the layout.
- Please ensure that all mitigation recommendations are in line with applicable and most recent guidelines.
- The final EIAr must provide the technical details for the proposed facility in a table format as well as their description and/or dimensions.
- Please ensure that all softcopy maps are clear and legible.
- Please ensure that the final EIAr complies with the requirements of Appendix 3 of the NEMA EIA Regulations, 2014, as amended.

(b) Listed Activities

- Please ensure that all relevant listed activities are applied for, are specific and can be linked to the development activity or infrastructure as described in the project description. Only activities applicable to the development must be applied for and assessed. Activity 15 of Listing Notice 3 has been applied for even though the geographical area in which the activity is proposed (KwaZulu-Natal Province) is not part of the geographical areas listed in Listing Notice 3 for this particular activity. This activity may

not need to be applied for, given that it is proposed in the KwaZulu-Natal Province. Kindly confirm this and amend the application form accordingly.

- If the activities applied for in the application form differ from those mentioned in the final EIAr, an amended application form must be submitted. Please note that the Department's application form template has been amended and can be downloaded from the following link <https://www.environment.gov.za/documents/forms>.
- The relevant authorities with jurisdiction in respect of geographically designated areas in terms of GN R. 985 (Listing Notice 3) Activities must be continuously involved throughout the environmental impact assessment process. Written comments (or proof of consultation) must be obtained from the relevant authorities and submitted to this Department. In addition, a graphical representation of the proposed development within the respective geographical areas must be provided. Please also ensure that the potential impacts on the affected Critical Biodiversity Areas indicated in Listing Notice 3 are fully assessed in the EIAr.

(c) Public Participation Process

- Please ensure that comments from all relevant stakeholders are submitted to the Department with the EIAr. This includes but is not limited to the KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs, the KwaZulu-Natal Department of Agriculture and Rural Development, the Department of Water and Sanitation, Ezemvelo KZN Wildlife, AMAFA, SANRAL, Transnet, Richards Bay Industrial Zone, Eskom, the City of uMhlathuze Local Municipality, the King Cetshwayo District Municipality, the relevant Atmospheric Air Emission Licence (AEL) Authority, the South African Civil Aviation Authority, the Department of Environment, Forestry and Fisheries: Directorates: Biodiversity and Conservation (BCAdmin@environment.gov.za), Climate Change, Air Quality (Derrick Makhubele: DMakhubele@dfef.gov.za) and Protected Areas. Furthermore, ensure that the management of the three schools (i.e., Little Junior, Batesda Primary School and Batesda High School) identified to be in close proximity to the proposed development is consulted.
- You are reminded to provide proof that the key stakeholders received written notification of the proposed activity as well as of the availability of the draft EIAr for comment. Proof of correspondence with the various stakeholders must be included in the final EIAr. Should you be unable to obtain comments, proof must be submitted to the Department of the attempts that were made to obtain comments. The Public Participation Process must be conducted in terms of Regulation 39, 40, 41, 42, 43 & 44 of the EIA Regulations 2014, as amended and the approved Public Participation (PP) Plan.
- A comments and response (C&R) trail report must be submitted with the final EIAr. The C&R report must incorporate all historical comments for this development. The C&R report must be a separate document from the main report and the format must be in a table format, which reflects the details of the interested and affected parties (I&APs) and the date comments were received, actual comments received, and responses provided. Please ensure that comments made by I&APs are comprehensively captured (copy verbatim if required) and responded to clearly and fully.
- Please ensure that all issues raised, and comments received on the Scoping Report and comments on the draft EIAr from registered I&APs and organs of state which have jurisdiction in respect of the proposed activity, including this Department's comments, are adequately addressed in the final EIAr. Please note that a response such as "Noted" is not regarded as an adequate response to I&AP's comments. The final EIAr must also comply with all conditions of the acceptance of the scoping report dated 24 February 2022.

(d) Cumulative Assessment

- Should there be any other similar projects within a 30km radius of the proposed development site, the cumulative impact assessment for all identified and assessed impacts must be refined to indicate the following:

- Identified cumulative impacts must be clearly defined, and where possible the size of the identified impact must be quantified and indicated, i.e. hectares of cumulatively transformed land.
- Detailed process flow and proof must be provided, to indicate how the specialist's recommendations, mitigation measures and conclusions from the various similar developments in the area were taken into consideration in the assessment of cumulative impacts and when the conclusion and mitigation measures were drafted for this project.
- The cumulative impacts significance rating must also inform the need and desirability of the proposed development.
- A cumulative impact environmental statement on whether the proposed development must proceed.

(e) Specialist Assessments

- Specialist studies must provide a detailed description of their methodology, as well as all other associated infrastructures that they have assessed and are recommending for the authorisation.
- The specialist studies must also provide a detailed description of all limitations to their studies. All specialist studies must be conducted in the right season and providing that as a limitation, will not be accepted.
- Please note that the Department considers a 'no-go' area, as an area where no development of any infrastructure is allowed; therefore, no development of associated infrastructure including access roads is allowed in the 'no-go' areas.
- Should the specialist definition of 'no-go' area differ from the Department's definition; this must be clearly indicated. The specialist must also indicate the 'no-go' area's buffer if applicable.
- All specialist studies must be final, and provide detailed/practical mitigation measures for the preferred alternative and recommendations, and must not recommend further studies to be completed post EA.
- Should the appointed specialists specify contradicting recommendations, the EAP must clearly indicate the most reasonable recommendation and substantiate this with defensible reasons; and where necessary, include further expertise advice.
- You are reminded that the Climate Change Impact Assessment must assess the impacts of the development on climate change and vice versa, and accordingly must consider both mitigation and adaptation measures to climate change.
- Please include a table in the EIAR or relevant appendix, summarising the specialist studies required by the Screening Tool, a column indicating whether these studies were conducted or not, and a column with motivation for any studies not conducted. Please note that if any of the specialists' studies and requirements recommended in the Department's Screening Tool are not commissioned, motivation for such must be provided.
- It is further brought to your attention that the *Procedures for the Assessment and Minimum Criteria for Reporting on identified Environmental Themes in terms of Sections 24(5)(a) and (h) and 44 of the National Environmental Management Act, 1998, when applying for Environmental Authorisation*, which were promulgated in Government Notice No. 320 of 20 March 2020 (i.e. "the Protocols"), and in Government Notice No. 1150 of 30 October 2020 (i.e. protocols for terrestrial plant and animal species) have come into effect. **Please note that specialist assessments must be conducted in accordance with these protocols**, except where the applicant provides proof to the competent authority that the specialist assessment affected by these protocols had been commissioned before the date on which the protocols came into effect, in which case Appendix 6 of the Environmental Impact Assessment Regulations, 2014, as amended, will apply to such applications. Please indicate in the EIAR whether the protocols were applied.
- Please note further that the Protocols require the specialists to be SACNASP registered.

(f) Environmental Management Programme

- The EMP must also include the following:

- All recommendations and mitigation measures recorded in the EIAr and the specialist studies conducted.
- An environmental sensitivity map indicating environmental sensitive areas and features identified during the assessment process.
- Measures to protect hydrological features such as streams, rivers, pans, wetlands, dams and their catchments, and other environmental sensitive areas from construction impacts including the direct or indirect spillage of pollutants.
- In addition to the above, the EMPr must comply with Appendix 4 of the EIA Regulations, 2014, as amended.

General

Please ensure that the final EIAr includes the period for which the Environmental Authorisation is required and the date on which the activity will be concluded as per Appendix 3 of the NEMA EIA Regulations, 2014, as amended.

Should you fail to meet any of the timeframes stipulated in Regulation 23 of the NEMA EIA Regulations, 2014, as amended, your application will lapse.

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 sincerely



Ms Millicent Solomons

Acting Chief Director: Integrated Environmental Authorisations

Department of Forestry, Fisheries and the Environment

Signed by: Ms Sindiswa Dlomo

Designation: Deputy Director: National Infrastructure Projects

Date: 08/07/2022

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| cc: | J Teyane | Richards Bay Gas Power 3 (Pty) Ltd | Email: thabiso@phakwegroup.co.za |
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