

17 March 2021

Dear Stakeholder and Interested & Affected Party,

**AMENDMENT OF ENVIRONMENTAL AUTHORISATION FOR THE 10MW HARMONY NYALA SOLAR ENERGY FACILITY AND ASSOCIATED INFRASTRUCTURE WITHIN THE MATJHABENG LOCAL MUNICIPALITY, LEJWELEPUTSWA DISTRICT MUNICIPALITY, FREE STATE PROVINCE
(DEA Ref.No.: 14/12/16/3/3/1/1472/AM1)**

NOTICE OF AMENDED ENVIRONMENTAL AUTHORISATION ISSUED

Nyala Photovoltaic (Pty) Ltd obtained Environmental Authorisation (EA) from the Department of Environment, Forestry and Fisheries¹ (DEFF) on 23 March 2016 for the 10MW Harmony Nyala Solar Energy Facility and Associated Infrastructure on Remaining Extent of the farm Rietpan 17, within the Matjhabeng Local Municipality, Lejweleputswa District Municipality, Free State Province.

The applicant hereby notifies all registered interested and affected parties, as instructed by the decision issued by the Department on 15 March 2021, and in terms of Regulation 4(2) of the Environmental Impact Assessment Regulations, 2014, as amended, that the Department has decided to amend the EA, dated 23 March 2016.

A copy of the amended EA is attached for your perusal. This amended EA must be read in conjunction with the EA dated 23 March 2016.

NOTICE OF APPEAL PROCESS

As an interested and affected party, your attention is drawn to Chapter 2, Regulation 4(2) of Government Notice No. 993, which prescribes the appeal procedure to be followed. Should you wish to appeal the decision, or any part of the decision, by the Department, you must submit your appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party and any organ of state with interest in the matter within **20 days** from the date that the notification of the decision was sent to registered interested and affected parties by the applicant (i.e. Wednesday, 17 March 2021).

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

¹ Previously known as the Department of Environmental Affairs (DEA)

The Director: Appeals and Legal Review

E-mail: appeals@environment.gov.za

By hand: Environmental House

473 Steve Biko Street

Arcadia

Pretoria

0083

or

By post: Private Bag X447

Pretoria

0001

To obtain the prescribed appeal form and for guidance on the submission of appeals, please visit the DEFF's website at: https://www.environment.gov.za/documents/forms#legal_authorisations or request a copy of the documents at appealsdirector@environment.gov.za

A copy of the Appeal Regulations is included with this notification letter.

Please note that **appeals should be submitted to the DEFF and not to the consultant** (Savannah Environmental).

Kind regards



Nicolene Venter

Public Participation and Social Consultant

Document Attached: Environmental Authorisation
National Appeals Regulations, 2014
National Appeal Amendment Regulations, 2015



environment, forestry & fisheries

Department:
Environment, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

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

DEA Reference: 14/12/16/3/3/1/1472/AM1

Enquiries: Zamalanga Langa

Telephone: (012) 399 9389 E-mail: zlanga@environment.gov.za

Carlo Amedeo Buonajuti
Nyala Photovoltaic (Pty) Ltd
PO Box 786012
SANDTON
2146

Telephone Number: (072) 265 0687
Email Address: ab@entropie.co.za

PER MAIL / EMAIL

Dear Sir/Madam

AMENDMENT OF ENVIRONMENTAL AUTHORISATION ISSUED ON 23 MARCH 2016 FOR THE 10MW HARMONY NYALA SOLAR ENERGY FACILITY AND ITS ASSOCIATED INFRASTRUCTURE WITHIN THE REMAINING EXTENT OF THE FARM RIETPAN 17, WITHIN THE MATJHABENG LOCAL MUNICIPALITY, FREE STATE PROVINCE

The Environmental Authorisation (EA) issued for the abovementioned application by this Department on 23 March 2016, your application for amendment of the EA received by the Department on 26 January 2021, the acknowledgement email dated 04 February 2021, and additional information received on 23 February 2021 refer.

Based on a review of the reason for requesting an amendment to the above EA, this Department, in terms of Chapter 5 of the Environmental Impact Assessment Regulations, 2014 as amended, has decided to amend the EA dated 23 March 2016 as amended, as follows:

Amendment 1: Change in Applicant Name/EA Holder Name on EA cover page, page 01 (table that include details of the EA) and page 02 (activities authorised) of the EA dated 23 March 2016:

From:

BBEntropie (Pty) Ltd

Is hereby amended to:

Nyala Photovoltaic (Pty) Ltd

Reason for amendment:

BBEntropie (Pty) Ltd (Applicant) require to transfer all project permitting and consent obtained for the project to the project company where the Solar PV plant asset will be owned and operated for the duration of the project. The transfer of the EA to the project company is required in order for the project to reach financial close.

M.S

Amendment 2: Change in PV Panel description on page 04 of the EA dated 23 March 2016:

From:

Photovoltaic (PV) panels of up to 4m in height (fixed tilt/static technology) with a generating capacity of up to 10MW

Is hereby amended to:

Photovoltaic (PV) panels of up to 5m in height (fixed tilt/static or tracking technology) with a generating capacity of up to 10MW

Reason for amendment:

The Applicant is considering the use of a tracking system for the PV panels. Tracking panels are a newer, more efficient technology that allows for greater capture of sunlight throughout the day, by tracking (following) the sun's movement. As a result, tracking panels are able to generate a higher energy yield compared to fixed-tilt panels, which would allow for more efficient use of the authorised footprint.

Amendment 3: Change in overhead power line coordinates on page 03 of the EA dated 23 March 2016:

From:

Preferred Power line route	Latitude	Longitude
Starting point	27°55'9.73"S	26°41'1.43"E
250m	27°55'1.74"S	26°41'2.08"E
500m	27°54'53.59"S	26°41'2.76"E
750m	27°54'45.43"S	26°41'3.40"E
1000m	27°54'37.24"S	26°41'4.05"E
1250m	27°54'29.09"S	26°41'4.71"E
1500m	27°54'20.91"S	26°41'5.36"E
1750m	27°54'13.29"S	26°41'2.49"E
2000m	27°54'5.88"S	26°40'58.80"E
2250m	27°53'58.72"S	26°40'54.85"E
End point	27°53'58.30"S	26°40'41.82"E

Is hereby amended to:

Preferred Power Line Route	Latitude	Longitude
Start	27°55'8.27 "S	26°41'2.50"E
Middle	27°54'30.50 "S	26°41'5.16 "E
End	27°54'2.12 "S	26°40'44.48 "E

DEA Reference: 14/12/16/3/3/1/1472/AM1

AMENDMENT OF ENVIRONMENTAL AUTHORISATION ISSUED ON 23 MARCH 2016 FOR THE 10MW HARMONY NYALA SOLAR ENERGY FACILITY AND ITS ASSOCIATED INFRASTRUCTURE WITHIN THE REMAINING EXTENT OF THE FARM RIETPAN 17, WITHIN THE MATJHABENG LOCAL MUNICIPALITY, FREE STATE PROVINCE

MS

Reason for amendment:

The Applicant requires a change in the coordinates authorised for the overhead power line as included in the EA dated 23 March 2016 (14/12/16/3/3/1/1472). The revised co-ordinates follow the same corridor as the authorised co-ordinates, but along a slightly more refined and optimised routing from the PV site to the Freguls Five Substation. This change will ensure that the Nyala Solar Energy Facility is able to operate and evacuate the generated power as efficiently as possible. The powerline will have a maximum voltage of 33kV and the pylons will not encroach within 32m of any watercourse. As such the powerline itself does not trigger any listed activities and does not require environmental authorisation. The revised powerline routing is however included for completeness of the Authorisation.

Amendment 4: Removal of water pipeline infrastructure on page 04 and 05 of the EA dated 23 March 2016:

The pipeline infrastructure is hereby removed from the EA dated 23 March 2016.

Reason for amendment:

The Applicant no longer requires the development of the water pipeline and is therefore requesting the removal thereof from the EA.

Amendment 5: Change in transformer Capacity on page 04 of EA dated 23 March 2016:

From:

Transformers with a step-up of 11kV

To:

Transformers with a step-up of up to 33kV

Reason for amendment:

The Application requires transformers with a step-up of up to 33kV for the operation of the facility. Due to technical requirements, the electricity generated by the PV Facility may need to be transformed (stepped-up) to a maximum of 33kV, to allow for efficient export of the electricity to the Freguls Five substation. The amendment will also allow for reduced line losses.

Amendment 6: A change in the overhead power line capacity on page 5 of EA dated 23 March 2016:

From:

An 11kV overhead distribution power line for the distribution of the generated power to the Freguls Five Substation

To:

An overhead distribution power line with a capacity of up to 33kV for the distribution of the generated power to the Freguls Five Substation

Reason for amendment:

The Applicant requires an overhead power line with a capacity of up to 33kV for the operation of the facility and technical requirements. This change will ensure that the Nyala Solar Energy Facility is able to operate and evacuate the generated power. The powerline will have a maximum voltage of 33kV and the pylons will not encroach within 32m of any watercourse. As such the powerline itself does not trigger any listed activities and does not require environmental authorisation. The revised powerline routing is however included for completeness of the Authorisation.

Amendment 7: Extension of the validity of the EA date 23 March 2016 by additional five (05) from 23 March 2021 to 23 March 2026:

Condition 7 of the EA dated 23 March 2016, is thus amended as follows:

"The activity must commence within a period of ten (10) years from the date of issue of this authorisation (i.e. the authorisation lapses on 23 March 2026). 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".

Reason for amendment:

The Applicant is requesting to amend and extend the validity of the commencement of activities from five (05) years to ten (10) years from the date of issue of this environmental authorisation. This will ensure that the EA remains valid for the undertaking of the authorised activities. Delays have been experienced in securing an electricity Generation License from NERSA. Further to a ministerial determination this year, the NERSA approval is anticipated in the next 12-18 months, with construction to follow.

Amendment 8: Change in condition 24 on page 09 of EA dated 23 March 2016:

From:

The holder of the authorisation may apply for an amendment of an EMPr, if such an amendment is required before an audit is required. The holder must notify the Department of its intention to amend the EMPr at least 60 days prior to submitting such amendments to the EMPr to the Department for approval. In assessing whether to grant such approval or not, the Department will consider the processes and requirements prescribed in Regulation 37 of GN R. 982.

To:

The holder of the authorization may apply for an amendment of an EMPr, if such an amendment is required before an audit is required. In assessing whether to grant such an EMPr amendment, the Department will consider the processes and requirements prescribed in the EIA Regulations in effect at the time.

Reason for amendment:

The Applicant is proposing a change to the wording included in Condition 24 of the EA. This change will ensure that the EMPr can be updated according to the relevant EIA Regulations at the time. It is noted that the requirement to provide 60 days' notice prior to the updating of the EMPr was previously stipulated in the EIA Regulations but was subsequently removed from the Regulations. It is requested that Condition 24 be similarly

amended to remove the 60-day notification requirement, so that the EMPr can be updated swiftly as /when required in response to circumstances on site.

Amendment 9: Amendment of condition 84 on page 14 of the EA dated 23 March 2016:

From:

Lighting for both the construction period and through the operation of the facility must be low pressure sodium type, preferably yellow. All perimeter and security lighting must be attached to motion detectors, and should be dark-sky friendly.

To:

Lighting for both the construction period and through the operation of the facility must be LED, preferably yellow. All perimeter and security lighting must be attached to motion detectors unless permanent lighting is required for safety or security reasons, and should be dark-sky friendly.

Reason for amendment:

The Applicant is proposing a change to the wording included in Condition 84 of the EA. LED lights are energy efficient and will reduce unnecessary energy usage on site. The substation is required to be permanently illuminated due to safety and security considerations. The site is not located in any gazetted Astronomy Geographic Advantage Area, and is not in a "dark-sky"/ light-sensitive area (the site is located within a mining area).

Amendment 10: Amendment of condition 97 on page 15 of the EA dated 23 March 2016:

From:

Lighting for both the construction period and through the operation of the facility must be low pressure sodium type, preferably yellow. All perimeter and security lighting must be attached to motion detectors, and should be dark-sky friendly.

To:

Lighting for both the construction period and through the operation of the facility must be LED, preferably yellow. All perimeter and security lighting must be attached to motion detectors unless permanent lighting is required for safety or security reasons, and should be dark-sky friendly.

Reason for amendment:

The Applicant is proposing a change to the wording included in Condition 84 of the EA. LED lights are energy efficient and will reduce unnecessary energy usage on site. The substation is required to be permanently illuminated due to safety and security considerations. The site is not located in any gazetted Astronomy Geographic Advantage Area, and is not in a "dark-sky"/ light-sensitive area (the site is located within a mining area).

This amendment letter must be read in conjunction with the EA dated 23 March 2016 as amended.

The Department is aware that the environment changes constantly, as a result it might be significantly different from the one that existed at the time of the issuing of this EA, hence the validity of the EA cannot exceed a maximum period of 10 years. Failure to commence with construction activities within the maximum 10 year period, your EA will be deemed to have lapsed and a new application for Environmental Authorisation will have to be lodged.

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

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

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

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

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

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

By email: appeals@environment.gov.za;

By hand: Environment House
473 Steve Biko,
Arcadia,
Pretoria,
0083; or

By post: Private Bag X447,
Pretoria,
0001;

Please note that in terms of Section 43(7) of the National Environmental Management Act, Act No. 107 of 1998, as amended, the lodging of an appeal will suspend the environmental authorisation or any provision or condition

attached thereto. In the instance where an appeal is lodged, you may not commence with the activity until such time that the appeal is finalised.

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

Yours faithfully



Mr Sabelo Malaza
Chief Director: Integrated Environmental Authorisations
Department of Environment, Forestry and Fisheries

Date: 15/03/2021

cc	Ms Jo-Anne Thomas	Savannah Environmental (Pty) Ltd	Email: joanne@savannahsa.com
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