



environment, forestry & fisheries

Department:
Environment, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

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DEFF Reference: 14/12/16/3/3/1/2259

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PER MAIL / E-MAIL

Dear Ms Scott-Shaw

COMMENTS ON THE DRAFT BASIC ASSESSMENT REPORT FOR THE PROPOSED CONSTRUCTION AND OPERATION OF BATTERY ENERGY STORAGE SYSTEM (BESS) AND ASSOCIATED INFRASTRUCTURE FOR THE DROOGFONTEIN 3 SOLAR PHOTOVOLTAIC (PV) FACILITY, LOCATED NEAR KIMBERLEY IN THE SOL PLAATJE LOCAL MUNICIPALITY WITHIN THE NORTHERN CAPE PROVINCE

The application form and draft Basic Assessment Report (BAR) dated November 2020, received by this Department on 13 November 2020 and acknowledged on the 18 November 2020, refer.

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

(a) 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.
- If the activities applied for in the application form differ from those mentioned in the final BAR, 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>.
- It is noted that Activity 14 is triggered since hazardous goods will be stored on site and the electrolyte for the BESS will also periodically be refilled.
- With regards to Listing Notice 1 Activity 27, please include the motivation for the inclusion of the activity. In the motivation, include whether the said clearance is to take place outside the authorised development footprint, or on an area that was not assessed previously and that clearance meets or exceeds a relevant threshold.

(b) Alternatives

- Please note that you are required to provide a full description of the process followed to reach the proposed preferred alternative within the site, in terms of Appendix 1(3)(1)(h) of the EIA Regulations 2014, as amended, including the following content:
 - (a) details of all the alternatives considered;
 - (b) details of the public participation process undertaken in terms of regulation 41 of the Regulations, including copies of the supporting documents and inputs;
 - (c) a summary of the issues raised by interested and affected parties, and an indication of the manner in which the issues were incorporated, or the reasons for not including them;
 - (d) the environmental attributes associated with the alternatives focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;
 - (e) the impacts and risks identified for each alternative, including the nature, significance, consequence, extent, duration and probability of the impacts, including the degree to which these impacts—
 - (f) (aa) can be reversed;
 - (g) (bb) may cause irreplaceable loss of resources; and
 - (h) (cc) can be avoided, managed or mitigated;
 - (i) the methodology used in determining and ranking the nature, significance, consequences, extent, duration and probability of potential environmental impacts and risks associated with the alternatives;
 - (j) positive and negative impacts that the proposed activity and alternatives will have on the environment and on the community that may be affected focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;
 - (k) the possible mitigation measures that could be applied and level of residual risk;
 - (l) the outcome of the site selection matrix;
 - (m) if no alternatives, including alternative locations for the activity were investigated, the motivation for not considering such; and
 - (n) a concluding statement indicating the preferred alternatives, including preferred location of the activity.
- Written proof of an investigation and motivation if no reasonable or feasible alternatives exist in terms of Appendix 1.

(c) Specialist Declaration of Interest

Specialist Declaration of Interest forms must be attached to the final BAR.

(d) Cumulative Assessment

- i. 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:
 - a) 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.
 - b) 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.
 - c) The cumulative impacts significance rating must also inform the need and desirability of the proposed development.

d) A cumulative impact environmental statement on whether the proposed development must proceed.

(e) Undertaking of an Oath

- i. The Department has noted that the submitted application form has an undertaking under oath or affirmation by the EAP. Please note that the final BAR must also have an undertaking under oath/ affirmation by the EAP.
- ii. Based on the above, you are therefore required to include an undertaking under oath or affirmation by the EAP (administered by a Commissioner of Oaths) as per Appendix 1(3)(r) of the NEMA EIA Regulations, 2014, as amended, which states that the BAR must include:
"an undertaking under oath or affirmation by the EAP in relation to:
 - a) *the correctness of the information provided in the reports;*
 - b) *the inclusion of comments and inputs from stakeholders and I&APs;*
 - c) *the inclusion of inputs and recommendations from the specialist reports where relevant; and*
 - d) *any information provided by the EAP to interested and affected parties and any responses by the EAP to comments or inputs made by interested and affected parties".*

(f) Details and Expertise of the EAP

You are required to include the details and expertise of the EAP in the BAR, including a curriculum vitae, in order to comply with the requirements of Appendix 1(3)(1)(a) of the NEMA EIA Regulations, 2014, as amended.

(g) Public Participation Process

- i. The following information must be submitted with the final BAR:
 - A list of registered interested and affected parties as per Regulation 42 of the NEMA EIA Regulations, 2014, as amended;
 - Copies of all comments received during the draft BAR comment period; and
 - A comment and response report which contains all comments received (chronologically) and responses provided to all comments and issues raised during the public participation process for the draft BAR. Please note that comments received from this Department must also form part of the comment and response report.
- ii. Please ensure that all issues raised and comments received during the circulation of the draft BAR from registered I&APs and organs of state which have jurisdiction (including this Department's Biodiversity Section) in respect of the proposed activity are adequately addressed in the final BAR.
- iii. Proof of correspondence with the various stakeholders must be included in the final BAR. Should you be unable to obtain comments, proof should 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.

(h) Environmental Management Programme (EMPr)

- (a) It is noted that a draft EMPr was attached and a final EMPr will be submitted to this Department for review and approval prior to commencement of construction (page 51 of the BAR).
- (b) You are required to comply with the content of the EMPr in terms of Appendix 4 of the Environmental Impact Assessment Regulations, 2014, as amended.
- (c) Please be informed that the following content must be incorporated within the EMPr's as indicated in Appendix 4 of the EIA Regulations 2014, as amended:
 - (i) Details of the EAP who prepared the EMPr; and the expertise of that EAP to prepare an EMPr, including a curriculum vitae.

- (ii) A map at an appropriate scale which superimposes the proposed activity, its associated structures, and infrastructure on the environmental sensitivities of the preferred site, indicating any areas that should be avoided, including buffers.
- (iii) A description of the impact management outcomes, including management statements, identifying the impacts and risks that need to be avoided, managed and mitigated as identified through the environmental impact assessment process for all phases of the development including —
 - Planning and design;
 - Pre-construction activities;
 - Construction activities;
 - Rehabilitation of the environment after construction and where applicable post closure; and
 - Where relevant, operation activities.
- (iv) A description of proposed impact management actions, identifying the manner in which the impact management outcomes contemplated in paragraph (d) of Appendix 4 of the EIA Regulations 2014, as amended, will be achieved, and must, where applicable, include actions to —
- (v) Avoid, modify, remedy, control or stop any action, activity or process which causes pollution or environmental degradation;
- (vi) Comply with any prescribed environmental management standards or practices;
- (vii) Comply with any applicable provisions of the Act regarding closure, where applicable; and
- (viii) Comply with any provisions of the Act regarding financial provision for rehabilitation, where applicable.
- (ix) The method of monitoring the implementation of the impact management actions contemplated in paragraph (f) of Appendix 4 of the EIA Regulations 2014, as amended.
- (x) The frequency of monitoring the implementation of the impact management actions contemplated in paragraph (f) of Appendix 4 of the EIA Regulations 2014, as amended.
- (xi) An indication of the persons who will be responsible for the implementation of the impact management actions.
- (xii) The time periods within which the impact management actions contemplated in paragraph (f) of Appendix 4 of the EIA Regulations 2014, as amended, must be implemented.
- (xiii) The mechanism for monitoring compliance with the impact management actions contemplated in paragraph (f) of Appendix 4 of the EIA Regulations 2014, as amended.
- (xiv) A program for reporting on compliance, taking into account the requirements as prescribed by the Regulations.

(i) Environmental Impact Statement

The environmental impact statement must contain –

- (a) a summary of the key findings of the environmental impact assessment;
- (b) a map at an appropriate scale which superimposes the proposed activity and its associated structures and infrastructure on the environmental sensitivities of the preferred site indicating any areas that should be avoided, including buffers; and
- (c) a summary of the positive and negative impacts and risks of the proposed activity and identified alternatives.

You are further reminded to comply with Regulation 19(1)(a) of the NEMA EIA Regulations, 2014, as amended, which states that: *“Where basic assessment must be applied to an application, the applicant must, within 90 days of receipt of the application by the competent authority, submit to the competent authority -*

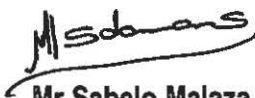
(a) a basic assessment report, inclusive of specialist reports, an EMPr, and where applicable a closure plan, which have been subjected to a public participation process of at least 30 days and which reflects the incorporation of comments received, including any comments of the competent authority.”

Should there be significant changes or new information that has been added to the BAR or EMPr which changes or information was not contained in the reports or plans consulted on during the initial public participation process, you are required to comply with Regulation 19(b) of the NEMA EIA Regulations, 2014, as amended, which states: *“the applicant must, within 90 days of receipt of the application by the competent authority, submit to the competent authority – (b) a notification in writing that the basic assessment report, inclusive of specialist reports an EMPr, and where applicable, a closure plan, will be submitted within 140 days of receipt of the application by the competent authority, as significant changes have been made or significant new information has been added to the basic assessment report or EMPr or, where applicable, a closure plan, which changes or information was not contained in the reports or plans consulted on during the initial public participation process contemplated in sub-regulation (1)(a) and that the revised reports or, EMPr or, where applicable, a closure plan will be subjected to another public participation process of at least 30 days”.*

Should you fail to meet any of the timeframes stipulated in Regulation 19 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



Mr Sabelo Malaza
Chief Director: Integrated Environmental Authorisations
Department of Environment, Forestry and Fisheries
Signed by: Ms Millicent Solomons
Designation: Director: Priority Infrastructure Projects
Date: 10/12/2020.

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