



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

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NEAS Reference: DEA/EIA/0001526/2012/2012

DEA Reference: 14/12/16/3/3/2/382/1

Enquiries: Danie Smit

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Dr. G Greyvenstein
Nexergy Solar (Pty) Ltd
P.O. Box 569
Great Brakriver
WESTERN CAPE
0169

Fax:(012) 349 8425

PER FACSIMILE / MAIL

Dear Dr Greyvenstein

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: GN R. 543/544/545/546: PROPOSED CONSTRUCTION OF 75MW PHOTOVOLTAIC SOLAR ENERGY FACILITY ON THE REMAINING EXTENT OF THE FARM VETLAAGTE 4 IN DE AAR, NORTHERN CAPE PROVINCE

With reference to the above application, please be advised that the Department has decided to accept the EIR dated February 2013 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 7561;
- 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:

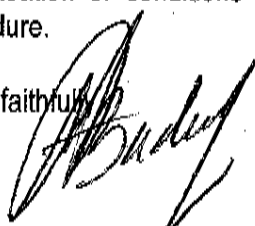
Mr Z Hassam Director: Appeals and Legal Review, of this Department at the above mentioned addresses or fax number. Mr Hassam can also be contacted at:

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 faithfully,



Mr Ishaam Abader
Deputy Director-General: Legal, Authorisations, Compliance and Enforcement
Department of Environmental Affairs

Date: 19/07/2013

CC:	Ms C Da Camara	AGES (Pty) Ltd	Tel: 012 751 2160	Fax: 086 607 2406
	Mr T Mthombeni	DE&NC	Tel: 053 631 0601	Fax: 053 631 0343
	Mr J Alexander	Emthanjeni Local Municipality	Tel: 053 632 9100	Fax: 053 631 0105
	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 Photovoltaic Solar Energy Facilities, with a generating capacity of 75MW on the remaining extent of the Farm Vetlaagte 4 in De Aar, Northern Cape Province

Pixley ka Seme District Municipality

Authorisation register number:	14/12/16/3/3/2/382/1
NEAS reference number:	DEA/EIA/0001526/2012
Last amended:	<i>First issue</i>
Holder of authorisation:	NEXERGY SOLAR (PTY) LTD
Location of activity:	Northern Cape Province: Emthanjeni Local Municipality

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 –

NEXERGY SOLAR (PTY) LTD

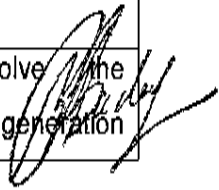
with the following contact details –

Dr. G Greyvenstein
Nexergy Solar (Pty) Ltd
P.O. Box 569
Great Brakriver
WESTERN CAPE
0169

Cell: (082) 558 3917
Fax: (012) 349 8425
E-mail: gideon@ennex.co.za



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

Listed activities	Activity/Project description
<p><u>GN R. 544 Item 10</u></p> <p><i>The construction of facilities or infrastructure for the Transmission and distribution of electricity-</i></p> <ul style="list-style-type: none"> <i>i. Outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts; or</i> <i>ii. Inside urban areas or industrial complexes with a capacity of 275 kilovolts or more.</i> 	<p>A new power line is to be installed at a voltage higher than 33 kilovolts but lower than 275 kilovolts, linking the solar power generation facility to the Eskom Hydra Substation.</p>
<p><u>GN R. 544 Item 11:</u></p> <p><i>The construction of-</i></p> <ul style="list-style-type: none"> <i>i. Canals;</i> <i>ii. Channels;</i> <i>iii. Bridges;</i> <i>iv. Dams;</i> <i>v. Weirs;</i> <i>vi. Bulk storm water outlet structures</i> <i>vii. Marinas;</i> <i>viii. Jetties exceeding 50 square metres in size;</i> <i>ix. Slipways exceeding 50 square metres in size;</i> <i>x. Buildings exceeding 50 square metres in size; or</i> <i>xi. Infrastructure or structures covering 50 square metres or more,</i> <p><i>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.</i></p>	<p>The project may involve the construction of infrastructure such as the solar panels and transformers, within 32 metres of a watercourse.</p>
<p><u>GN R. 545 Item 1:</u></p> <p><i>The construction of facilities or infrastructure for the</i></p>	<p>The project will involve the construction of solar power generation</p> 

Listed activities	Activity/Project description
<p><i>generation of electricity where the electricity output is 20 megawatts or more.</i></p>	<p>facilities which will generate more than 20MW of electricity.</p>
<p><u>GN R. 545 Item 15:</u> <i>Physical alteration of undeveloped, vacant or derelict land for residential, retail commercial, recreational, industrial or institutional use where the total area to be transformed is 20 hectares or more;</i> <i>except where such physical alteration takes place for:</i></p> <ol style="list-style-type: none"> <li data-bbox="284 712 724 745">i. <i>Linear development activities; or</i> <li data-bbox="284 768 916 857">ii. <i>Agriculture or afforestation where activity 16 in this schedule will apply.</i> 	<p>The project will involve the development of a solar power generation facility which will cover more than 20 hectares of land.</p>
<p><u>GN R. 546 Item 14:</u> <i>The clearance of an area of 5 hectares or more of vegetation where 75% or more of the vegetation cover constitutes indigenous vegetation, except where such removal of vegetation is required for:</i></p> <ol style="list-style-type: none"> <li data-bbox="284 1160 916 1350">1. <i>Purposes of agriculture or afforestation inside areas identified in spatial instruments adopted by the competent authority for agriculture or afforestation purposes;</i> <li data-bbox="284 1373 916 1686">2. <i>The undertaking of a process or activity included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the activity is regarded to be excluded from this list;</i> <li data-bbox="284 1709 916 1798">3. <i>The undertaking of a linear activity falling below the thresholds in Notice 544 of 2010.</i> 	<p>The project will involve the development of a solar power generation facility which will possibly involve the clearing of vegetation of more than 5 hectares which constitute more than 75% of indigenous vegetation.</p>



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

Alternative S1	Latitude	Longitude
Middle point of activity	30°39'28.46"S	24°5'28.98"E

- for the construction of Photovoltaic Solar Energy Facilities, with a generating capacity of 75MW on the remaining extent of the Farm Vetlaagte 4 in De Aar, Northern Cape Province, hereafter referred to as "the property".

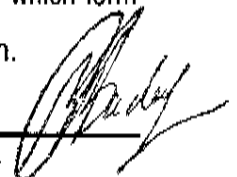
The infrastructure associated with this facility includes:

- A new power line with a capacity of 132 kV, linking the solar power generation facilities to the existing Eskom Hydra Substation.
- A new short 132kV power line linking the power generation facilities on Portions F and G to the proposed new 132 kV line.
- Substation on Portions B, which will connect to either the existing 132 kV power lines or the proposed new 132 kV power line.
- Switching stations (SS) with transformers next to the substations, which will connect the solar facilities to the different substations.
- Cabling between the PV/TPV panels and/or CPV panels and/or dish Stirling units and switching station.
- Foundations to support the PV/TPV panels and/or CPV panels and/or dish Stirling units infrastructure.
- Internal access roads.
- Maintenance building and site offices.

Conditions of this Environmental Authorisation


Scope of authorisation

1. The preferred site, Activity Alternative 2 Solar Power, Technology Alternative 1 PV and CPV and the preferred Layout Alternative are 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 (3) 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.

Notification of authorisation and right to appeal

9. 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.
 10. The notification referred to must –
 - 10.1. specify the date on which the authorisation was issued;
 - 10.2. inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the Environmental Impact Assessment Regulations, 2010;
 - 10.3. advise the interested and affected party that a copy of the authorisation will be furnished on request; and
 - 10.4. give the reasons of the competent authority for the decision.
 11. The holder of the authorisation must publish a notice –
 - 11.1. informing interested and affected parties of the decision;
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- 11.2. informing interested and affected parties where the decision can be accessed; and
- 11.3. 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

12. 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

13. The applicant must appoint a suitably 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.
 - 13.1. The ECO must be appointed before commencement of any authorised activities.
 - 13.2. Once appointed, the name and contact details of the ECO must be submitted to the *Director: Compliance Monitoring* of the Department.
 - 13.3. The ECO must keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
 - 13.4. 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

14. 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.
15. 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.

16. 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.
17. 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

18. The authorised activity shall not commence within twenty (20) days of the date of signature of the authorisation.
19. 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.
20. 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

21. 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

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



Site closure and decommissioning

23. 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

24. No activities will be allowed to encroach into a water resource without a water use authorisation being in place from the Department of Water Affairs.
25. The applicant must obtain a wayleave from the Department of Public Transport Roads and Works prior construction.
26. A permit must be obtained from the relevant nature conservation agency for the removal or destruction of indigenous protected and endangered plant and animal species.
27. Copies of permits in respect of 26 above required must be submitted to the Department for record keeping.
28. No exotic plants may be used for rehabilitation purposes. Only indigenous plants of the area may be utilised.
29. Vegetation clearing must be kept to an absolute minimum. Mitigation measures must be implemented to reduce the risk of erosion and the invasion of alien species.
30. The removal of vegetation should only occur on the footprint area of the development and not over the larger area. The clearing and damage of plant growth in these areas should be restricted to the footprint way leave area. If possible, the herbaceous layer should not be cleared prior to the construction of the plant but slashed. This is more practical considering the lower strata to be less than 1 meter in height and the solar panels to be 2.6m high. Once erected, the herbaceous layer could be kept short through slashing, which will also allow grazing in the area by small livestock and game species.
31. The ECO must demarcate all sensitive areas and be demarcated as "no go" areas.
32. All project infrastructures, i.e. solar panels, power line and substation should be located away from sensitive habitats such as waterways, known rocky outcrops or any areas considered being of bat conservation importance.
33. Sites SA01, SA02 and SA04, as described in the Final EIR dated February 2013, comprise of high density Middle Stone Age (MSA) scatters. Therefore areas containing these high densities of MSA material must be excluded from the Solar Energy Facility development as far as possible. However
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were these MSA scatters are to be directly impacted on by the development activities, the sites must be recorded within the larger cultural and social context of the sites by means of a Phase 2 Specialist Study. The Specialist should obtain the necessary permits from SAHRA for the in-situ analysis, possible collection and photography of the artefacts during the study.

34. A 100m conservation buffer zone must be maintained around Vetlaagte farmstead (Site HP01) and graveyard (Site BP01) during all phases of development and operation of the solar farm project.
35. Construction must include appropriate design measures that allow surface and subsurface movement of water along drainage lines, so as not to impede upon natural surface and subsurface flows. Drainage measures must promote the dissipation of storm water run-off.
36. The following Management Plans formed part of the EIR dated February 2013:
 - Plant Rescue and Protection Plan (Appendix O);
 - A Rehabilitation and Re-vegetation Plan (Appendix P);
 - An Alien Invasive Management Plan (Appendix Q);
 - Storm Water Management Plan (Appendix R);
 - Erosion Management Plan (Appendix S); and
 - Traffic Management Plan (Appendix T).

The management plans must be implemented and are considered as part of the Environmental Management Plan dated February 2013.

37. 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 site licensed in terms of section 20 (b) of the National Environment Management Waste Act, 2008 (Act 59 of 2008).

General

38. 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.
39. 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.

40. 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: 19 July 2013



Mr Ishaam Abader

**Deputy Director-General: Legal, Authorisations, Compliance and Enforcement
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 the organs of state and 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 to T of the EIR; 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.
The need for the proposed project stems from the need to contribute towards the target of 3725 MW as well as towards socio-economic and environmentally sustainable growth, and to start and stimulate the renewable industry in South Africa.
- 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 BAR 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.

