



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: 14/12/16/3/3/1/2635

Enquiries: Mr Wayne Hector

Telephone: (012) 399 9410 E-mail: WHector@dfpe.gov.za

Mr Thomas Condesse
FE Red Sands (Pty) Ltd
60 Hennie Winterbach
PANORAMA
7500

Telephone Number: 084 548 4264
Email Address: thomas.condesse@energyteam.co.za
millard.kotze@energyteam.co.za

PER EMAIL / MAIL

Dear Mr Condesse

ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, ACT NO. 107 OF 1998, AS AMENDED: FOR THE PROPOSED DEVELOPMENT OF UP TO 270 MW FE RED SANDS SOUTH EAST WIND ENERGY FACILITY (WEF) AND ASSOCIATED INFRASTRUCTURE ON THE REMAINING EXTENT OF THE FARM ROOI DUIN 100, NAMA-KHOI LOCAL MUNICIPALITY, NORTHERN CAPE PROVINCE.

With reference to the above application, please be advised that the Competent Authority has decided to refuse the application for Environmental Authorisation. The reasons for this refusal are contained in the Record of Refusal, of which a copy is attached hereto.

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 fourteen (14) days of the the date of the Record of Refusal, of the Competent Authority's decision as well as the provisions regarding the submission of appeals that are contained in the EIA Regulations.

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 stipulates that the Competent Authority should conduct itself in a responsible manner when collecting, processing, storing and sharing an individual or another entity's personal information by holding the Competent Authority accountable should the Competent Authority abuses or compromises your personal information in any way.

Your attention is drawn to Chapter 2 of the 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 prescribe 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.

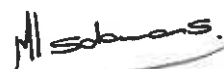
By email: appeals@dffe.gov.za

By hand: Environment House
473 Steve Biko Road
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 Department's website at <https://www.dffe.gov.za/documents/forms#legal> authorisations or request a copy of the documents at appeals@dffe.gov.za.

Yours faithfully



Ms Millicent Solomons
Acting Chief Director: Integrated Environmental Authorisations
Department of Forestry, Fisheries and the Environment
Date: 30/03/2023.

cc:	Bryan Fisher	Northern Cape DAERDLF	Email: bfisher@ncpp.gov.za
	Mr Deon Magerman	Nama Khoi Local Municipality	Email: deon.magerman@namakhoi.gov.za
	Ms M Kleinbooi	Nama Khoi Local Municipality	Email: monique.kleinbooi@namakhoi.gov.za
	Marvin Ryan Grimett	Enviro-Insight CC	Email: marvin.grimett@gmail.com
		Enviro-Insight CC	Email: ronell@enviro-insight.co.za



forestry, fisheries & the environment

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

Record of Refusal

In terms of Regulation 24(1)(b) of the Environmental Impact Assessment Regulations, 2014, as amended

PROPOSED DEVELOPMENT OF UP TO 270 MW FE RED SANDS SOUTH EAST WIND ENERGY FACILITY (WEF) AND ASSOCIATED INFRASTRUCTURE ON THE REMAINING EXTENT OF THE FARM ROOI DUIN 100, NAMA-KHOI LOCAL MUNICIPALITY, NORTHERN CAPE PROVINCE.

NAMAKWA DISTRICT MUNICIPALITY

Authorisation register number:	14/12/16/3/3/1/2635
Last amended:	First issue
Holder of authorisation:	FE Red Sands (Pty) Ltd
Location of activity:	Remaining Extent of the Farm Rooi Duin 100, within Ward 4 of the Nama-Khoi Local Municipality; Namakwa District Municipality, Northern Cape Province.

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 Competent Authority is satisfied, based on information available to it that the applicant should not be authorised to undertake the activities specified below.

Details regarding the basis on which the Competent Authority reached this decision are set out in Annexure 1 to this Record of Refusal.

Activities refused

By virtue of the powers conferred on it by the National Environmental Management Act, Act No. 107 of 1998, as amended and the Environmental Impact Assessment Regulations, 2014, as amended, the Department hereby refuses the application for Environmental Authorisation to –

FE RED SANDS (PTY) LTD

with the following contact details –

Mr Thomas Condesse
FE Red Sands (Pty) Ltd
60 Hennie Winterbach Street

PANORAMA

7500

Telephone Number: 084 548 4264

Email Address: thomas.condesse@energyteam.co.za
millard.kotze@energyteam.co.za

Not to undertake the following activities (hereafter referred to as “the activity”) indicated in Listing Notice 1, Listing Notice 2 and Listing Notice 3 of the EIA Regulations, 2014 as amended:

Activity number	Activity description
<u>Listing Notice 1</u>	
<p><u>Listing Notice 1, Item 11:</u> <i>“The development of facilities or infrastructure for the transmission and distribution of electricity (i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts.”</i></p>	<p>Underground cables for the transmission of electricity generated by the turbines to the onsite switching station.</p>
<p><u>Listing Notice 1 Item 12:</u> <i>“The development of— (ii) infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs— (a) within a watercourse; (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse.”</i></p>	<p>The proposed turbines and associated infrastructure including access roads and laydown areas during the construction phase located within a watercourse or the 32m buffer area.</p>
<p><u>Listing Notice 1 Item 14:</u> <i>“The development and related operation of facilities or infrastructure, for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 cubic meters or more but not exceeding 500 cubic meters.”</i></p>	<p>The development and operation of the FE Red Sands South East WEF will require infrastructure for up to 500 cubic metres of storage of dangerous goods, which will include flammable and combustible liquids.</p>
<p><u>Listing Notice 1 Item 19:</u> <i>“The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from (i) a watercourse.”</i></p>	<p>The development site is located within watercourses and pans. Therefore, during the construction phase, 10 cubic metres of rock and soil will be removed from the watercourses for the development of the FE Red Sands South East WEF and associated infrastructure.</p>

Activity number	Activity description
<p><u>Listing Notice 1 Item 24:</u></p> <p><i>“The development of a road—</i></p> <p><i>(ii) with a reserve wider than 13,5 meters, or where no reserve exists where the road is wider than 8 metres.”</i></p>	<p>Roads are required throughout the construction and operational stages of the project during the construction phase, roads will be approximately 12m wide for the delivery of turbine parts and other equipment, and approximately 8m wide during the operational phase for maintenance purposes.</p>
<p><u>Listing Notice 1 Item 28:</u></p> <p><i>“Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:</i></p> <p><i>(ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare.”</i></p>	<p>The proposed development will be constructed and operated on land currently used for agricultural purposes, grazing. The development footprint considered for the establishment of the WEF is approximately 7 242 hectares (ha in extent and is located outside an urban area.</p>
<p><u>Listing Notice 1 Item 56:</u></p> <p><i>“The widening of a road by more than 6m, or lengthening of a road by more than 1km-</i></p> <p><i>(ii) where no reserve exists, where the existing road is wider than 8 metres.”</i></p>	<p>Access to site for the transport of large infrastructure components related to the FE Red Sands South East WEF will require the widening of existing access and/or internal roads where no reserve exists and where such road is wider than 8m.</p>
<p><u>Listing Notice 2</u></p>	
<p><u>Listing Notice 2 Item 1:</u></p> <p><i>“The development of facilities or infrastructure for the generation of electricity from a renewable resource where the electricity output is 20 megawatts or more,”</i></p>	<p>The proposed development entails the development of a Wind Energy Facility which have a generation capacity of up to 270MW.</p>
<p><u>Listing Notice 2 Item 15:</u></p> <p><i>“The clearance of an area of 20 hectares or more of indigenous vegetation,”</i></p>	<p>The proposed development will require the clearance of indigenous vegetation. The project is on properties where the predominant land use is agriculture (stock farming), grazing, low intensity cultivation and comprises of indigenous vegetation. The project would therefore result in the clearance of an area of</p>

Activity number	Activity description
	indigenous vegetation of approximately 7 242 hectares.
<u>Listing Notice 3</u>	
<p><u>Listing Notice 3 Item 10:</u> <i>The development and related operation of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of 30 but not exceeding 80 cubic meters.</i></p> <p><i>g. Northern Cape</i></p> <p><i>ii. Areas within a watercourse or wetland; or within 100 metres from the edge of a watercourse or wetland;</i></p> <p><i>iii. Outside urban areas:</i></p> <p><i>(ee) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</i></p>	<p>The development and operation of the proposed development will require infrastructure for up to 500 cubic metres of storage of dangerous goods, which will include flammable and combustible liquids. A watercourse is present in the study area.</p>
<p><u>Listing Notice 3 Item 18:</u> <i>"The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre.</i></p> <p><i>i. Western Cape</i></p> <p><i>ii. All areas outside urban areas:</i></p> <p><i>(aa) Areas containing indigenous vegetation."</i></p>	<p>Upgrades of existing roads are to take place within a watercourse. The existing roads, including the access roads, will be expanded by more than 4m.</p>

as described in the final Basic Assessment Report (BAR) dated January 2023 at:

SG 21 Code

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Co-ordinates of the proposed WEF	Latitude	Longitude
Point A	29°34'8.48"S	18°41'33.86"E
Point B	29°35'39.00"S	18°46'12.21"E

Point C	29°40'24.08"S	18°43'38.78"E
Point D	29°40'10.12"S	18°40'0.34"E
Mid-Point	29°37'49.34"S	18°42'58.38"E

Coordinates of associated infrastructure	Latitude	Longitude
Main Access Road 1 Start	29°34'40.85"S	18°43'17.67"E
Main Access Road 1 End	29°38'40.33"S	18°44'33.21"E
Main Access Road 2 Start	29°40'7.64"S	18°39'59.34"E
Main Access Road 2 End	29°36'54.51"S	18°45'29.91"E
BESS (2ha)	29°36'26.99"S	18°41'4.31"E
Laydown Area (6ha)	29°36'22.95"S	18°41'9.17"E
O&M Area (1.1ha)	29°36'28.54"S	18°41'11.26"E
Onsite Substation (2ha)	29°36'30.78"S	18°41'3.63"E
Accommodation (1ha)	29°36'29.71"S	18°41'14.43"E

- for the proposed development of up to 270 MW FE Red Sands South East Wind Energy Facility and associated infrastructure on the Remaining Extent of the Farm Rooi Duin 100, within Ward 4 of the Nama-Khoi Local Municipality, Northern Cape Province, hereafter referred to as "the property".

The components of the WEF and associated infrastructure will include the following:

- up to 57 wind turbines, with a generation capacity of between 4.5 and 7.5 MW per turbine,
- turbines will have a hub height of up to 150m and a rotor diameter of up to 175m,
- onsite substation/s of 100mX100m (33/132kV) to facilitate the connection between the WEF and Aggeneys substation,
- a Battery Energy Storage System (BESS),
- concrete foundations to support turbine towers,
- cabling between turbines, to be laid underground where practical,
- internal/ access roads (up to 10 m in width) linking the wind turbines and other infrastructure on the site,
- permanent workshop area and office for control, maintenance and storage, and
- temporary laydown areas during the construction phase.

Technical details of the Wind Energy Facility:

Component	Description / Dimensions
Province	Northern Cape
Farm portion	Remaining Extent of the Farm Rooi Duin 100
Property Extent (ha)	7 242 hectares
21-digit Surveyor General code	C05300000000010000000
Number of turbines	Up to 57
Hub height	Up to 150 m
Rotor diameter	Up to 175 m
Turbine capacity (MW)	between 4.5 and 7.5 MW
Contracted capacity of the facility (MW)	Up to 270 MW
Length of blade	87.5 m
Dimensions of the turbine foundations	20X20X8m
Cabling	Underground up to 1m deep
Capacity of onsite substation	33/132kV (100mX100M)
Grid connection	Aggeneys Substation
Width of internal roads	up to 10 m
Proximity to grid connection	500m approximately
Laydown areas	Construction period laydown footprint (temporary): approximately 6 ha Temporary hardstand area (boom erection, storage and assembly area): approximately 15 ha O&M Area: approximately 1.1ha BESS: 1.94ha

Legislative Requirements

Refusal of the application

1. The application for Environmental Authorisation is refused for the proposed development of up to 270 MW FE Red Sands South East Wind Energy Facility and associated infrastructure on the Remaining

Extent of the Farm Rooi Duin 100, within Ward 4 of the Nama-Khoi Local Municipality, Northern Cape Province, as described above.

Notification of refusal and right to appeal

2. The applicant must notify every registered interested and affected party, of the Competent Authority's decision, in writing and within 14 (fourteen) calendar days of the date of this record of refusal.
3. The notification referred to must –
 - 3.1. specify the date on which the record of refusal was issued;
 - 3.2. inform the interested and affected party of the appeal procedure provided for in the National Appeal Regulations, 2014;
 - 3.3. advise the interested and affected party that a copy of the record of refusal will be furnished on request; and,
 - 3.4. give the reasons of the Competent Authority for the decision.

Date of refusal for Environmental Authorisation: 30/03/2023.



Ms Milicent Solomons

Acting Chief Director: Integrated Environmental Authorisations

Department of Forestry, Fisheries & the Environment

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 listed activities as applied for in the amended application form received on 01 February 2023.
- b) The information contained in the BAR dated January 2023.
- c) The comments received from interested and affected parties as included in the BAR dated January 2023.
- d) Mitigation measures as proposed in the BAR dated January 2023.
- e) The information contained in the specialist studies contained within the appendices of the BAR dated January 2023 and as appears below:

Study	Specialist	Date
Terrestrial Biodiversity Assessment	Enviro-Insight CC	Version 1 – September 2022 and Version 2 – January 2023
Preconstruction Avifaunal Assessment	Enviro-Insight CC - Sam Laurence (Pr. Sci. Nat.)	January 2023
Pre-construction Bat Monitoring	Enviro-Insight CC – Luke Verburgt (Pr. Sci. Nat.) Alex Rebelo (Cand. Sci. Nat.) AE Van Wyk (Cand. Sci. Nat.)	January 2023
Freshwater Biodiversity and Watercourse Delineation	Tate Environmental Specialist Services (TESS)	August 2022
Agriculture Compliance Statement	Johann Lanz	January 2023:
Noise Impact Assessment	Enviro Acoustic Research	October 2022
Visual Impact Assessment	Eco Elementum (Pty) Ltd (January 2023
Heritage Impact Assessment	Beyond Heritage- Jaco van der Walt	January 2023
Social Impact Assessment	Tony Barbour and Schalk van der Merwe	October 2022
Transport Impact Assessment	Christoff Krogscheepers, Pr. Eng - Innovative Transport Solutions	January 2023

- f) 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 considered 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 information contained in the application form, the final BAR dated January 2023 and the amended application form submitted therein.
- b) The findings of all the specialist studies conducted and their recommended mitigation measures.
- c) The comments received by various I&APs and the responses thereto as contained in Appendix E of the BAR.
- d) The comments provided by the Chief Directorate: Integrated Environmental Authorisations on the draft BAR on the 28 November 2022, respectively.

3. Findings

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

- a) The application form and the final BAR does not conform to the minimum requirements of the NEMA EIA Regulations 2014, as amended. Certain listed activities as applied for in the amended application form submitted together with the final BAR dated January 2023 are not final, therefore their applicability is questioned. The Competent Authority advised the EAP during the commenting period on the draft BAR to clearly identify and provide a final list of all applicable listed and specified activities and to include reference to the onsite substation.
- b) The EAP/Applicant failed to comply with the requirements in terms of GN No. 435 dated 22 March 2019. The Competent Authority advised that a generic EMPr was required to be submitted as the proposed development triggered Activity 11 of Listing Notice 1. Paragraph (i), (i) and (ii) of the comment letter on the Draft BAR dated 28 November 2022 stated that:
- c) "It is drawn to your attention that Substation and overhead electricity transmission and distribution infrastructure which trigger activity 11 or 47 of the Environmental Impact Assessment Regulations Listing Notice 1 of 2014, as amended, and any other listed and specified activities necessary for the realisation of such facilities, require the submission of a generic Environmental Management Programme as contemplated in Regulations 23(4). Please make note of Part B Section 2 of the generic EMPr requirement which states that:

"This section must be submitted to the CA together with the final BAR or EIAR. The information submitted to the CA will be incomplete should a signed copy of Part B: section 2 not be submitted. Once approved, this Section forms part of the EMPr for the development and is legally binding. Ensure that signed versions of the generic EMPr for the substation are submitted with the final BAR. This is over and above the EMPr for the facility."

- d) Based on the Comments and Response report in Appendix E of the final BAR dated January 2023, the EAP responded regarding the listed activities and the generic EMPr that 'Listed activities have been updated accordingly' and that 'The onsite substation will not be included in this application but will be included in the Grid line application;' and '(ii) The onsite substation and grid connection will be applied for in a separate application, the generic EMPr will be used for that Application.'
- e) Although the Comments and Response report only reference issues as being addressed, the amended application form and the final BAR did not address the concerns raised by the Department in the letter dated 28 November 2022. Activity 11 of Listing Notice 1, was not removed from the application form and the final BAR assessed the onsite substation. Certain Listed Activities in amended application form are not final; for e.g., Activity 10 of Listing Notice 3 is described as "It is possible that this activity may become redundant after the necessary steps have been taken". A generic Environmental Management Programme (EMPr) was not submitted.
- f) The submission of the generic EMPr is a legislative requirement in terms of GN No. 435 dated 22 March 2019 in instances where activity 11 of Listing Notice 1 of the EIA Regulations, 2014 as amended is triggered. As such, the generic EMPr for overhead electricity transmission and distribution infrastructure as set out in Appendix 2 of GN No. 435, must have been included in the draft and final BARs.
- g) The Basic Assessment process was compromised as the applicant failed to comply with the requirements prescribed in terms of GN No. 435 dated 22 March 2019 regarding the submission of the generic EMPr.
- h) The amended application form and the final BAR in its current form is not adequate to make an informed decision on the abovementioned application.

Consequently there is no sufficient, adequate and reliable basis upon which the statutory discretion of the Competent Authority can be exercised in favour of the applicant and therefore the application for Environmental Authorisation is refused.



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, Pretoria, 0002 Tel: +27 12 399 9000, Fax: +86 625 1042

Enquiries: Devinagle Bendeman Telephone: 012 399 9337 E-mail: vbendeman@dffe.gov.za

Ms. Milicent Solomons
Director: Priority Infrastructure Projects

Dear Ms. Solomons

APPOINTMENT AS CHIEF DIRECTOR: INTERGRATED ENVIRONMENTAL AUTHORISATIONS (ACTING), FROM 01 MARCH UNTIL 31 MARCH 2023

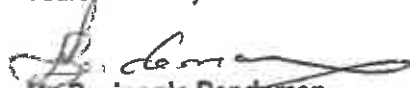
I hereby inform you that I have decided to appoint you as Acting Chief Director: Intergrated Environmental Authorisations from 01 March until 31 March 2023.

All correspondence and other documents that are usually signed by the Chief Director: Intergrated Environmental Authorisations during must be signed under Acting Chief Director: Intergrated Environmental Authorisations during the above-mentioned period.

Your appointment in the above acting position remains subject to the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994), as amended, the Government Employees Pension Fund Act, 1996 (Proclamation No. 21 of 1998), the regulations promulgated under these Acts and relevant circulars.

In the execution of your duties and the exercising of the powers delegated to you, you will furthermore be subjected to the provisions of the Public Finance Management Act, compliance with the promotion of Access to Information Act, Promotion of Administrative Justice Act, the Minimum Information Security Standards, Departmental Policies and other applicable legislations with the Republic of South Africa. You are therefore advised to make yourself familiar with the provisions of the legislations and policies and the amendments thereof. (Copies of departmental policies can be obtained from the Human Resource Office).

Yours Sincerely


Ms Devinagle Bendeman

Deputy Director-General: Regulatory Compliance and Sector Monitoring


Date: 22 February 2023



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The processing of personal information by the Department of Forestry, Fisheries and the Environment is done lawfully and not excessive to the purpose of processing in compliance with the POPI Act, any codes of conduct issued by the Information Regulator in terms of the POPI Act and / or relevant legislation providing appropriate security safeguards for the processing of personal information of others

ACKNOWLEDGEMENT

I ACCEPT / ~~DO NOT ACCEPT~~
appointment as Acting Chief Director:
Intergrated Environmental Authorisations
Signed: 

Date: 27/02/2023