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DEA Reference: 14/12/16/3/3/2/1133 Enquiries: Ms Mmamohale Kabasa

Telephone: (012) 399 9420 E-mail: MKabasa@environment.gov.za

Mr Andries van Ross Transnet SOC LTD PO Box 72501 PARKVIEW 2122

Telephone number:

(011) 308 1681

Cell phone number:

(083) 389 4156

Email address:

Andries.vanRoss@transnet.net

PER E-MAIL / MAIL

Dear Mr Van Ross

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: GN R. 982/983/985 FOR THE EXPANSION OF THE TRANSNET LEPHALALE RAILWAY YARD, STEENBOKPAN, WEST OF THE TOWN OF LEPHALALE WITHIN THE LEPHALALE LOCAL MUNICIPALITY IN THE LIMPOPO PROVINCE

With reference to the above application, please be advised that the Department has decided to refuse authorisation. The refusal of Environmental Authorisation (EA) and reasons for the decision are attached herewith.

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 decision as well as the provisions regarding the submission of appeals that are contained in the 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 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 abuses or compromises your personal information in any way.

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 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@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

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Ms Milicent Solomons

Acting Chief Director: Integrated Environmental Authorisations

**Department of Environmental Affairs** 

Date: 1812 209.

CC:	M Botha	Naledzi Environmental Consultants (Pty) Ltd	Email: botham@naladzi.co.za



# **Refusal of Environmental Authorisation**

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

The expansion of the Transnet Lephalale Railway Yard, Steenbokpan, west of the town of Lephalale

within the Lephalale Local Municipality in the Limpopo Province

## **Waterberg District Municipality**

Authorisation register number:	14/12/16/3/3/2/1133
Last amended:	First issue
Holder of authorisation:	Transnet SOC Ltd
Location of activity:	Portion 1 (Remaining Extent) of the Farm
	Geelhoutkloof 359LQ;
	Farm Geelhoutkloof 717LQ;
	Farm Enkeldraai 718LQ;
	Farm Buffelsjagt 744LQ;
	Lephalale Local Municipality;
	Waterberg District Municipality;
	Limpopo Province

This environmental 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 that the applicant should not be authorised to undertake the activities specified below.

Details regarding the basis on which the Department reached this decision are set out in Annexure 1 to this Environmental Authorisation.

## **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 Environmental Authorisation to –

#### TRANSNET SOC LTD

with the following contact details -

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PO Box 72501

**PARKVIEW** 

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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
Listing Notice 1 Item 12:  "The development of  (ii) infrastructure or structures with a physical footprint of 100m² or more; where such development occurs:  (c) within 32 metres of a watercourse measured from the edge of the watercourse"	The North Facility and staff buildings will be developed within the 32m buffer zone of Stream Crossing No. 2. The existing culvert crossing at the stream would be extended to allow the stream to flow below the tracks and facilities. Facilities are strategically placed according to 200 wagon trains and function in yard. Facilities cannot be relocated since this would impact on the yard functional requirements.  2000m² North Facility and 960m² staff amenities on either site of the stream. Both located 8m east and
Listing Notice 1 Item 24:	west of the stream.
"The development of- (ii) a road with a reserve wider than 13,5 meters, or where no reserve exists where the road is wider than 8 metres; but excluding- (a) roads which are identified and included in activity 27 in Listing Notice 2 of 2014; or (b) roads where the entire road falls within an urban area; or (c) which is 1 kilometre or shorter	Construction of a 3.7km in length, 8 meter wide internal tarred access road from entry of the yard to the South Facility of the yard.
levelopment footprint, excluding- ) railway lines, shunting yards and railway stations	The Lephalale Railway Yard is an existing 100 wagon yard along the existing Lephalale-Thabazimbi railway track that requires extension for it to accommodate 200 train wagons in future for the increase in load and capacity.

(ii) underground railway lines in mines; or

(iii) additional railway lines within the railway line reserve."

The single railway line will be expanded with 4 service tracks with the addition of the yard mainly comprise three buildings; office building, administration building and maintenance & repair building with associated infrastructure. The expansion goes beyond the Transnet servitude and requires approximately 22 hectares of land.

#### Listing Notice 2 Item 4:

"The development 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 more than 500 cubic metres." The yard will include two 300 cubic metres diesel tanks with decanting slabs. There shall be four rail-decanting points and one road decanting point provided all at one location. The total fuel storage volume is 600 cubic metres. There will also be 1 diesel tanker in the fire pump room (0.5m³) and 6720 litres of oil storage (6.72m³) or 32 drums of oil.

#### Listing Notice 3 Item 2:

"The development of reservoirs for bulk water supply with a capacity of more than 250 cubic metres.

(e) In Limpopo:

i. In a protected area identified in terms of NEMPAA, excluding conservancies;

ii. Outside urban areas, in:

(dd) Critical Biodiversity Areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans."

(ff) Areas within 5 kilometres from any other protected area identified in terms of NEMPAA."

The yard will include a water reservoir (steel tank) with a volume of 260m³ for its bulk water supply. The reservoir position on the farm Geelhoutkloof 717LQ falls within the current boundaries of the Koedoe Private Nature Reserve which was proclaimed in 1962. The reservoir will be positioned in an ESA1 (CBA in terms of the Limpopo Conservation Plan 2013). The water reservoir will be located 4.6km west from the Tierkop Nature Reserve.

#### Listing Notice 3 Item 4:

"The development of a road wider than 4 metres with a reserve less than 13,5 metres.

e. Limpopo:

i. Outside urban areas:

The development includes construction of a 3.7km, 8 metre wide tarred access road from entry of the yard to the furthest facility on the west. It also includes a 3.7km, 4 metre wide gravel service road north of the existing railway line, within existing Transnet servitude. The

(aa) A protected area identified in terms of NEMPAA, excluding disturbed areas;

(ee) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;

(gg) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve, excluding disturbed areas:

roads will cut across a CBA 2 and ESA 1 as per the Limpopo Conservation Plan 2013. The Lephalale Railway Yard Expansion footprint cuts across the current Koedoe Nature Reserve as per the National Protected Areas Database.

#### Listing Notice 3 Item 12:

"The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan."

- (e) Limpopo:
- (ii) within critical biodiversity areas identified in bioregional plans.

The project will require clearance of indigenous vegetation in a CBA on the western portion of the project site to make way for the railway tracks and infrastructure.

Portions of the project site corresponds to a Critical Biodiversity Area 2 and Ecological Support Area 1 as per the Limpopo Conservation Plan 2013. 6.2 hectares of indigenous vegetation will be cleared in this Critical Biodiversity Area.

#### Listing Notice 3 Item 23:

"The expansion of

(ii) infrastructure or structures where the physical footprint area is expanded by more than 10m<sup>2</sup> or more

where such expansion occurs

- (a) within a watercourse
- (c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse
- (e) Limpopo
- (i) Outside urban areas

The 22-hectare yard expansion will result in 3 stream crossings and will be developed within 32m of two pan depressions. The pans and two of the stream crossings fall within geographical areas.

(ee) Critical Biodiversity Area Stream crossing 1: 4.9km bypass railway track cross ephemeral stream with underpass extension and concrete drift (105m²). Gravel maintenance road cross stream with concrete drift (80m²). Stream crossing 1 will be located within a Critical Biodiversity Area in terms of the Limpopo Conservation Plan and Waterberg Bioregional Plan.

- (aa) A protected area identified in terms of NEMPAA, excluding conservancies;
- (ee) Critical Biodiversity Areas as identified in systematic biodiversity plans adopted by competent authority or in bioregional plans;
- (gg) Areas within 5 kilometres from any other protected areas identified in terms of NEMPAA"
- (aa) Protected Area in terms of NEMPAA Stream Crossing 2: Internal tar access road, bypass line and arrival line crosses stream via new culverts extended from existing culvert to allow for yard expansion. Extend current culvert at crossing from 60m² to a 600m² culvert. Access road is 3.7km, Bypass line is 4.9km bypass line, 3.7km arrival line. Stream crossing 2 is located in the Koedoe Nature Reserve. Please note Transnet will assist landowners (once negotiated) to apply for amendment of protected area boundary in order to exclude the proposed railway yard expansion servitude from the proclaimed area. The culverts along tracks are extended to the new tracks to allow the streams to flow under the new railway track.
- (ee) Critical Biodiversity Area Pan Depression 1 and 2 The railway yard expansion footprint will impede two pan depressions which are located within a Critical Biodiversity Area. The expansion area is 22 hectares. These pans will be relocated and rehabilitated to establish adequate 32m buffer zones. The bypass line will impede Pan 1 and arrival line will impede Pan 2. The Bypass line is 4.9km and arrival line 3.7km.
- (gg) within 5km of any other protected area: The expansion of culverts at Stream Crossing 2 and 3 for the internal access road, bypass line, arrival line will exceed 10m<sup>2</sup> and be located within 4km from the Tierkop Nature Reserve.

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as described in the Environmental Impact Assessment Report (EIAr) dated October 2019 and received on 25 October 2019 at:

Phase 1 Bypass line:	Latitude	Longitude
Start	23° 46' 34.23" S	27° 25'55.86" E
End	23° 45' 0.97" S	27° 28'11.61" E
Phase 2 Bypass line	Latitude	Longitude
Start	23° 46'11. 67" S	27° 26'16.54" E
End	23° 45′ 04.54" S	27° 28'05.76" E

- for the expansion of the Transnet Lephalale Railway Yard, Steenbokpan, Lephalale Local Municipality, Waterberg District Municipality, Limpopo Province, hereafter referred to as "the property".

#### The infrastructure associated with this facility includes:

- Four new railway lines of 4.8km (Phase 1= 4.8km and Phase 2 = 3.7km);
- Construct and extend culverts from the existing single track railway line to the new tracks;
- Internal tarred access road from yard entry to the southernmost facility at end of the yard (3.7km distance and 8m wide);
- Lights would also be fitted along the railway yard site;
- Gravel service road (4m wide, 3.7km long) north of the arrival line, in existing rail servitude;
- Guard House with storage tank (20 000 litre/21m³ JoJo Tank);
- Bio Mite Sewage Systems (submerged) and soakaway systems at the North and South Facilities to treat sewage and effluent to DWS standards and dispose into soakaway. The North Bio Mite 100 capacity will be 20m³/day and the South Bio Mite 25 will be 5m³/day;
- Gravel service road north of the arrival line (3.7km in distance and 4m wide);
- Earth Channel with a 3300m³ capacity at the North Facility to serve as an evaporation channel for coal contaminated stormwater;
- 260m³ steel water reservoir to store the yard water supply including a water supply;
- Roads and carports at facilities:
- North Facility (office and administrative buildings): Provisional Facility, Staff amenities, Store room, Administration Building, Infra Crew Building, Water Reservoir (steel tank) with a volume of 260m³;
- Diesel storage area: 600m³ of diesel storage tanks and 4 decanting slabs at one point, 500 litre (0.5m³)
   diesel tanker in fire pump room;



- South Facility (Maintenance and repair building): Provisional Facility, sanding facilities, 6720 litres of oil storage (32 drums of oil), Parts storage room, Staff amenities, will be used for the facility, Effluent management (water/oil separator);
- Fire suppression systems that require a foam storage tank, water storage tank and foam pipelines; and
- The yard will be fenced off with controlled access via a Guard House at entry to the yard.

#### Technical details of the proposed facility:

Component	Description/ Dimensions
Location of the site	Approximately 30km west of the town of Lephalale, Limpopo
	Province
Length	4 new service tracks (bypass = 4.9km and arrival lines=3.7km);
Preferred Site access	Existing access road from Road D2649

## Legislative Requirements

#### Scope of authorisation

 Authorisation is refused for the construction of the Transnet Lephalale Railway Yard west of the town of Lephalale within the Lephalale Local Municipality in the Limpopo Province.

#### Notification of authorisation and right to appeal

- 2. The holder of the authorisation must notify every registered interested and affected party, in writing and within 14 (fourteen) calendar days of the date of this Environmental Authorisation, of the decision to refuse the activity.
- 3. The notification referred to must
  - 3.1. specify the date on which the authorisation 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 authorisation will be furnished on request; and
  - 3.4. give the reasons of the Competent Authority for the decision.



Date of refusal of environmental authorisation:  $\frac{18}{12}$ 

Ms Milicent Solomons

**Acting Chief Director: Integrated Environmental Authorisations** 

**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 listed activities as applied for in the application form and the draft Scoping Report received on 05 November 2018.
- b) Comments issued by the Department on the draft Scoping Report signed 04 December 2018.
- c) The information contained in the final Scoping Report received by the Department on 10 January 2019.
- d) Acceptance of the Scoping Report issued by the Department signed 19 February 2019.
- e) Request for extension in terms of Regulation 3(7) of the EIA Regulations 2014, as amended, received by the Department on 21 February 2019.
- f) Refusal of extension in terms of Regulation 3(7) of the EIA Regulations 2014, as amended, signed 11 March 2019.
- g) The information contained in the draft EIAr received by the Department on 15 July 2019.
- h) Comments issued by the Department on the draft EIAr signed 07 August 2019.
- i) Details of the site inspection conducted on 17 September 2019.
- The final EIAr received by the Department on 25 October 2019.
- k) The comments received from the DWS; DEA: Trans-Frontier and Protected Areas Planning; LEDET: Environmental Impact Management; LEDET: Biodiversity and Conservation-Protected Areas; Eskom Distribution; the Lephalale Development Committee; the Lesedi Community Ward Committee, and interested and affected parties as included in the EIAr received on 25 October 2019.
- The information contained in the specialist studies contained within the appendices of the EIAr received on 25 October 2019 and as appears below:

Specialist study	Responsible Specialist	Date
Ecological Habitat Survey	Renier Terblanche of Holistic Environmental Services	June 2019
Noise and Vibration Impact Assessment	Barend van der Merwe of dBAcoustics	November 2019
Visual Impact Assessment	Dr Wynand Vlok of BioAssets	February 2019
Hydrological Impact Assessment	Duncan Munyai of Naledzi Waterworks	April 2019



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Wetland Assessment	Reinier F Terblanche	April 2019
Heritage impact assessment	Mr Mathoho Ndivhuho Eric of Millennium	July 2018
	Heritage Group (PTY) LTD	
Paleontologically desktop	Dr JF Durand of Millennium Heritage	April 2019
survey	Group (PTY) LTD	
Socio-Economic Impact	Equispectives Research and Consulting	February 2019
Assessment	Services	
Traffic Impact Assessment	Dr Wynand Vlok of Corli Havenga	April 2019
	Transportation Engineers	
Geotechnical Investigation	J Viljoen	October 2017

m) 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 requirements of the National Environmental Management Protected Areas Act, 2002.
- b) The EAP failed to adequately address and adhere to the recommendations and findings of the comments issued by this Department on 07 August 2019, and the discussions and agreements of the site visit held on 17 September 2019.

#### 3. Findings

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

- a) A section of the constructible corridor traverses the Koedoe Private Nature Reserve, which is a National Environmental Management: Protected Areas Act (NEM:PAA) Section 23 nature reserve managed by the landowner. Any activities which take place within the nature reserve must be compliant with the Protected Area Management Plan (PAMP) which is compiled in terms of NEM:PAA.
- b) The non-compliance with Section 50(5) of the NEM:PAA, which states that "No development, construction or farming may be permitted in a national park, nature reserve or world heritage site without the prior written approval of the management authority." As such, no approval from the landowner was obtained and submitted as part of this application.



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c) The ElAr in its current form is not adequate to make an informed decision on the abovementioned application.

In view of the above, the competent authority is of the opinion that the proposed listed activities will conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities may not be mitigated to acceptable levels and should therefore be prevented altogether. The Environmental Authorisation is accordingly refused.





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Enquiries: Ishaam Abader

Tel: 012 399 9330

Email:labader@environment.gov.za

Ms. Milicent Solomons

Director: Strategic Infrastructure Development

**Dear Ms Solomons** 

APPOINTMENT AS ACTING CHIEF DIRECTOR: INTEGRATED ENVIRONMENTAL AUTHORISATIONS FOR THE PERIOD OF 17 - 24 DECEMBER 2019

I hereby inform you that I have decided to appoint you as Acting Chief Director: Integrated Environmental Authorisations, for the period 17 - 24 December 2019, whilst Mr Sabelo Malaza is on annual leave.

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

You 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

Kshaam Abader

**Deputy Director-General: LACE** 

Date: 12/12/2019

**ACKNOWLEDGEMENT** LACCEPT / DO-NOT ACCEPT

appointment as Acting Chief Director: Integrated Environmental Authorisations