



DFFE Reference:
14/12/16/3/3/2/2456/AM1
WSP Reference: 41103965
15 April 2025
PUBLIC

Dear Sir/Madam,

Notification in terms of Regulation 4(2) of the Environmental Assessment Regulations, 2014 (as amended) of the Amendment of the Environmental Authorisation issued on 02 February 2024 for the Establishment of a Solar Photovoltaic (PV) Energy Facility, Battery Energy Storage System (BESS) Facilities and associated Infrastructure at the Komati Power Station in the Steve Tshwete Local Municipality, Nkangala District Municipality, Mpumalanga Province

The Amendment of the Environmental Authorisation (EA) (Ref: 14/12/16/3/3/2/2456) issued on 02 February 2024 was granted by the Department of Forestry, Fisheries and the Environment (DFFE) on 10 April 2025 (received via email on 11 April 2025) to Eskom Holdings SOC Ltd for the Establishment of a Solar Photovoltaic (PV) Energy Facility, Battery Energy Storage System (BESS) Facilities and Associated Infrastructure at the Komati Power Station in the Steve Tshwete Local Municipality, Mpumalanga Province (refer to **Appendix A**).

The holder of the EA is required to, in writing, within fourteen days of the date of the decision on the amendment application, ensure that all registered Interested & Affected Parties (I&APs) are provided with access to the decision and the reasons for such decision. The EA was signed off on 10 April 2025 and received via email on 11 April 2025. The I&APs are therefore notified within 14 days of receipt of the EA Amendment as required.

The EA Amendment is attached in **Appendix A** of this notification.

WSP Group Africa (Pty) Ltd (WSP) (the Environmental Assessment Practitioner (EAP)) hereby notifies all registered I&APs of their right to appeal the EA Amendment in terms of Regulation 4(2) of the Environmental Impact Assessment Regulations, (Government Notice Regulation (GNR) 982 of 2014). Furthermore, WSP hereby provide I&APs with information regarding the process of lodging an appeal.

The appeal procedure described in the National Appeal Regulations, 2014, and outlined below, must be followed should an I&AP want to submit an appeal. The National Appeal Regulations, 2014 and National Appeal Amendment Regulations, 2015 have been included in **Appendix B**.

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 (10 May 2025) from the date that the notification of the decision was sent to the registered interested and affected

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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 the DFFE by any of the following means:

- By email: appeals@dfre.gov.za
- By hand: Environment House, 473 Steve Biko, Arcadia, Pretoria, 0083; or
- By post: Private Bag X447, Pretoria, 0001

EA Holder's Details:

- Holder: Eskom Holdings SOC Ltd
- Contact: Deidre Herbst
- Tel: 011 800 3501
- Email: herbstdl@eskom.co.za

EAP's Details:

- WSP Group Africa (Pty) Ltd
- Attention: Ashlea Strong
- Tel: 011 361 1392
- Email: Ashlea.Strong@wsp.com

For further information, please do not hesitate to contact WSP on the details indicated above.

Kind regards,

Ashlea Strong
Principal Associate and Registered EAP



APPENDIX A: ENVIRONMENTAL AUTHORISATION



forestry, fisheries & the environment

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

Private Bag X447, Pretoria, 0001, Environment House, 473 Steve Biko Road, Pretoria, 0002 Tel: +27 12 399 9000, Fax: +27 86 625 1042

DFFE Reference: 14/12/16/3/3/2/2456/AM1
Enquiries: Ms Mmamohale Kabasa
Telephone: (012) 399 9404 **E-mail:** MKabasa@dffe.gov.za

Ms Deidre Herbst
Eskom Holdings SOC Ltd
PO Box 1901
JOHANNESBURG
2001

Telephone Number: (011) 800 3501
Email Address: deidre.herbst@eskom.co.za

PER EMAIL

Dear Ms Herbst

AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 02 FEBRUARY 2024 FOR THE PROPOSED ESTABLISHMENT OF A SOLAR PHOTOVOLTAIC (PV) ENERGY FACILITY, BATTERY ENERGY STORAGE SYSTEM (BESS) FACILITIES AND ASSOCIATED INFRASTRUCTURE AT THE KOMATI POWER STATION WITHIN THE STEVE TSHWETE LOCAL MUNICIPALITY AND THE NKANGALA DISTRICT MUNICIPALITY IN THE MPUMALANGA PROVINCE

The Environmental Authorisation (EA) issued for the abovementioned application by this Department on 02 February 2024 and your application for amendment received by the Department on 08 October 2024, refer.

Based on a review of the reason for requesting an amendment to the above EA, this Department, in terms of Chapter 5 of the NEMA EIA Regulations, 2014 as amended, has decided to amend the EA dated 02 February 2024, as follows:

Amendment 1: Changing of coordinates and split of Area A on page 5 of the EA:

From:

Point	Longitude	Latitude
A1	26° 06' 05.31"S	29° 27' 30.76"E
A2	26° 06' 17.89"S	29° 27' 05.38"E
A3	26° 06' 34.41"S	29° 27' 08.05"E



Batho pele- putting people first



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.

MS

A4	26° 06' 36.69"S	29° 27' 15.15"E
A5	26° 06' 38.86"S	29° 27' 55.22"E
A6	26° 06' 21.30"S	29° 27' 56.25"E
A7	26° 06' 15.50"S	29° 27' 52.78"E
A8	26° 06' 12.67"S	29° 27' 48.93"E
A9	26° 06' 12.40"S	29° 27' 40.35"E
A10	26° 06' 12.76"S	29° 27' 36.36"E
A11	26° 06' 16.81"S	29° 28' 10.77"E
A12	26° 06' 31.14"S	29° 28' 01.99"E
A13	26° 06' 35.00"S	29° 28' 03.48"E
A14	26° 06' 39.43"S	29° 28' 09.30"E
A15	26° 06' 39.48"S	29° 28' 12.50"E
A16	26° 06' 35.92"S	29° 28' 11.90"E
A17	26° 06' 29.40"S	29° 28' 18.32"E
A18	26° 06' 18.08"S	29° 28' 13.47"E

To:

	Longitude	Latitude
Site A1		
A1	26° 6' 17.242" S	29° 27' 5.118" E
A2	26° 6' 4.897" S	29° 27' 29.224" E
A3	26° 6' 13.155" S	29° 27' 38.984" E
A4	26° 6' 11.653" S	29° 27' 40.735" E
A5	26° 6' 11.570" S	29° 27' 48.910" E
A6	26° 6' 15.991" S	29° 27' 54.666" E
A7	26° 6' 19.661" S	29° 27' 57.168" E
A8	26° 6' 38.095" S	29° 27' 55.166" E
A9	26° 6' 36.511" S	29° 27' 13.209" E
A10	26° 6' 34.175" S	29° 27' 9.372" E
A11	26° 6' 31.172" S	29° 27' 7.203" E
Site A2		
A1	26° 6' 30.755" S	29° 28' 1.339" E
A2	26° 6' 15.824" S	29° 28' 12.349" E
A3	26° 6' 27.919" S	29° 28' 17.771" E
A4	26° 6' 29.420" S	29° 28' 19.189" E
A5	26° 6' 30.755" S	29° 28' 18.689" E
A6	26° 6' 36.093" S	29° 28' 12.182" E
A7	26° 6' 39.513" S	29° 28' 13.517" E
A8	26° 6' 39.347" S	29° 28' 4.759" E

Reason for amendment

The holder of the EA has applied to change the coordinates for PV Site A which have been updated to align with the associated infrastructure, and the site has been split into two distinct areas. This strategic change will ensure optimal use of the space and resources, enhancing efficiency and maximising energy production potential.

M.S

Amendment 2: Changing of coordinates of Area B on page 6 of the EA:**From:**

Point	Longitude	Latitude
B1	26° 05' 52.913" S	29° 27' 01.316" E
B2	26° 05' 56.110" S	29° 27' 04.546" E
B3	26° 05' 47.744" S	29° 27' 02.637" E
B4	26° 05' 28.923" S	29° 27' 38.153" E
B5	26° 05' 26.293" S	29° 27' 37.132" E
B6	26° 05' 38.559" S	29° 27' 07.165" E
B7	26° 05' 35.996" S	29° 27' 05.593" E
B8	26° 05' 35.414" S	29° 27' 10.286" E
B9	26° 05' 33.580" S	29° 27' 09.704" E
B10	26° 05' 34.259" S	29° 26' 57.740" E

To:

PV Site B	Longitude	Latitude
B1	26° 5' 33.950" S	29° 26' 57.944" E
B2	26° 5' 33.367" S	29° 27' 10.206" E
B3	26° 5' 35.035" S	29° 27' 10.290" E
B4	26° 5' 34.951" S	29° 27' 4.951" E
B5	26° 5' 38.872" S	29° 27' 6.119" E
B6	26° 5' 26.860" S	29° 27' 33.729" E
B7	26° 5' 26.527" S	29° 27' 37.733" E
B8	26° 5' 29.112" S	29° 27' 38.817" E
B9	26° 5' 47.297" S	29° 27' 3.867" E
B10	26° 5' 55.555" S	29° 27' 4.367" E
B11	26° 5' 55.555" S	29° 27' 3.616" E
B12	26° 5' 54.053" S	29° 27' 3.700" E
B13	26° 5' 54.136" S	29° 27' 1.281" E
B14	26° 5' 46.045" S	29° 27' 0.363" E
B15	26° 5' 40.707" S	29° 27' 5.869" E
B16	26° 5' 36.786" S	29° 26' 58.779" E

Reason for amendment

The holder of the EA has applied to change the coordinates for PV Site B which have been updated to align with the associated infrastructure. This strategic change will ensure optimal use of the space and resources, enhancing efficiency and maximizing energy production potential.

Amendment 3: Changing of coordinates of BESS A on page 6 of the EA:

From:

BESS A		
Point	Longitude	Latitude
A1	26° 05' 28.940" S	29° 28' 04.556" E
A2	26° 05' 29.278" S	29° 28' 04.601" E
A3	26° 05' 30.136" S	29° 28' 06.897" E
A4	26° 05' 25.806" S	29° 28' 09.032" E
A5	26° 05' 24.683" S	29° 28' 06.080" E
A6	26° 05' 24.115" S	29° 28' 06.315" E
A7	26° 05' 22.795" S	29° 28' 02.181" E
A8	26° 05' 27.799" S	29° 28' 01.020" E

To:

BESS A	Longitude	Latitude
1	26° 5' 27.877" S	29° 28' 0.972" E
2	26° 5' 22.780" S	29° 28' 2.258" E
3	26° 5' 28.612" S	29° 28' 17.503" E
4	26° 5' 29.989" S	29° 28' 17.089" E
5	26° 5' 27.831" S	29° 28' 11.533" E
6	26° 5' 31.918" S	29° 28' 9.559" E
7	26° 5' 29.714" S	29° 28' 3.773" E
8	26° 5' 28.749" S	29° 28' 4.187" E

Reason for amendment

The holder of the EA has applied to change the coordinates for BESS Area A to allow optimisation of the existing space.

Amendment 4: The 132kV powerline and associated coordinates on Page 7 of the EA is removed

Reason for amendment

The holder of the EA has applied to remove the 132kV overhead powerline (OHPL) from the EA as it was deemed unviable from an engineering perspective, as capacity on these lines may have already been allocated for other projects.

Amendment 5: Update the coordinates of Substation 1 and Substation 2 on Page 7 of the EA to reflect new position:

From:

Point	Longitude	Latitude
Substation 1		
SN1	26° 05' 27.122" S	29° 27' 33.533" E
SN2	26° 05' 26.331" S	29° 27' 37.452" E
SN3	26° 05' 27.794" S	29° 27' 37.798" E

SN4	26° 05' 28.467" S	29° 27' 33.826" E
Substation 2		
SN5	26° 06' 06.286" S	29° 27' 29.397" E
SN6	26° 06' 05.502" S	29° 27' 30.884" E
SN7	26° 06' 08.140" S	29° 27' 32.908" E
SN8	26° 06' 09.042" S	29° 27' 31.369" E

To:

	Longitude	Latitude
Substation 1		
SN1	26° 5' 28.582" S	29° 27' 35.191" E
SN2	26° 5' 26.695" S	29° 27' 35.163" E
SN3	26° 5' 26.667" S	29° 27' 37.360" E
SN4	26° 5' 28.639" S	29° 27' 37.389" E
Substation 2		
SN1	26° 6' 15.297" S	29° 27' 36.817" E
SN2	26° 6' 12.106" S	29° 27' 40.873" E
SN3	26° 6' 14.551" S	29° 27' 43.348" E
SN4	26° 6' 17.712" S	29° 27' 39.233" E

Reason for amendment

The holder of the EA has applied to relocate the substations to strategically align with the proposed and authorised infrastructure, enhancing its functionality and efficiency.

Amendment 6: Addition of coordinates for Substation 3:

Substation 3		
Point	Longitude	Latitude
SN1	26° 6' 28.601" S	29° 28' 15.836" E
SN2	26° 6' 30.481" S	29° 28' 15.872" E
SN3	26° 6' 30.517" S	29° 28' 18.077" E
SN4	26° 6' 28.529" S	29° 28' 17.969" E

Reason for amendment

The holder of the EA has applied to add a third substation to significantly enhance the proposed infrastructure in PV Area 2.

Amendment 7: Update the coordinates of the temporary construction laydown Area on Page 7 of the EA to reflect new positions:

From:

Laydown Area		
Point	Longitude	Latitude
L1	26° 06' 33.159" S	29° 27' 20.052" E
L2	26° 06' 36.370" S	29° 27' 19.472" E

L3	26° 06' 38.154" S	29° 27' 46.767" E
L4	26° 06' 34.831" S	29° 27' 46.796" E

To:

Point	Longitude	Latitude
Laydown Area A		
L1	26° 6' 7.075" S	29° 27' 25.931" E
L2	26° 6' 4.968" S	29° 27' 29.209" E
L3	26° 6' 7.986" S	29° 27' 32.670" E
L4	26° 6' 10.301" S	29° 27' 29.287" E
Laydown Area B		
L1	26° 5' 26.524" S	29° 27' 37.483" E
L2	26° 5' 26.529" S	29° 27' 37.755" E
L3	26° 5' 29.055" S	29° 27' 38.584" E
L4	26° 5' 30.073" S	29° 27' 36.411" E
L5	26° 5' 28.941" S	29° 27' 36.274" E
L6	26° 5' 28.875" S	29° 27' 37.347" E

Reason for amendment

The holder of the EA has applied to relocate the temporary construction and laydown area to the centre of the project site to enhance convenience and ease during the development and construction phases.

Amendment 8: Update to Letter A under the key components/infrastructure on Page 8 of the EA and Row 3 of the table of technical details of the facility on Page 9 of the EA :

From:

"Solar modules will be elevated above the ground and will be mounted on either fixed tilt systems or tracking system.

➤ **Solar Farm A:**

- Extent: 115ha;
- AC Capacity: Up to 70MW
- DC Capacity: Up to 84MW

➤ **Solar Farm B:**

- Extent: 21ha
- AC Capacity: Up to 30MW
- DC Capacity: Up to 36MW"

To:

"Solar modules will be elevated above the ground, and will be mounted on either fixed tilt systems or tracking system.

➤ **Solar Farm A1:**

- Buildable Area: 109 Ha
- AC Capacity: Up to 46 MW
- DC Capacity: Up to 55 MW

➤ **Solar Farm A2:**

- Buildable Area: 18 Ha
- AC Capacity: Up to 14 MW
- DC Capacity: Up to 17 MW
- Solar Farm B:
 - Buildable Area: 30 Ha
 - AC Capacity: Up to 12 MW
 - DC Capacity: Up to 15 MW

Reason for amendment

The holder of the EA has applied to update the coordinates for PV Site A which have been updated to align with the associated infrastructure, and the site has been split into two distinct areas. This strategic change will ensure optimal use of the space and resources, enhancing efficiency and maximizing energy production potential..

Amendment 9: Update Letter B under the key components/infrastructure on Page 8 of EA and Row 5 of the table of technical details of the facility on Page 9 of EA:

From:

- Point of connection of solar panels will be to the Komati High Voltage (HV) yard.
- Power routed via a medium voltage overhead line (OHL) or underground cabling.
- Powerline Corridor:
 - 58ha
- Servitude of powerlines:
 - Between 36m and 40m
 - Area will be approximately 26ha

To:

- Point of connection of Solar Panels will be to the Komati High Voltage (HV) yard.
- Power routed via a medium voltage overhead line (OHL) or underground cabling (33kV)

Reason for amendment

The holder of the EA has applied to remove the 132kV overhead powerline (OHPL) from the EA as it was deemed unviable from an engineering perspective, as capacity on these lines may have already been allocated for other projects.

Amendment 9: Update Letter C under the key components/infrastructure on Page 8 of EA and Row 5 in the table of technical details of the facility on Page 9 of EA:

From:

- Each of the solar sites will be equipped with collector substations.
- Infrastructure associated with the substations includes:
 - Operations and Maintenance (O&M) buildings housing the control and communication equipment.
 - Site substations and collector substations.
- Solar Site Substation A
 - Capacity: 132kV
 - Footprint: 0.5ha

➤ *Solar Site Substation B*

- Capacity: 132kV

- Footprint: 0.5ha

To:

➤ *Each of the Solar Sites will be equipped with collector substations.*

• Substation footprint A1 – 1.5 Ha

• Substation footprint A2 – 0.36 Ha

• Substation footprint B – 0.36 Ha

Reason for amendment

The holder of the EA has applied to add a third substation to significantly enhance the proposed infrastructure in PV Area 2.

Amendment 10: Update Letter D under the key components/infrastructure on Page 8 & 9 of EA and Row 6 in the table of technical details of the facility Page 10 of EA:

From:

➤ *Three BESS facilities*

➤ *Footprints: 3ha*

➤ *BESS capacity: 150 MW with four hours standby time*

➤ *Lithium battery technologies, such as Lithium Iron Phosphate, Lithium Nickel Manganese Cobalt Oxides or Vanadium Redox flow technologies are being considered*

To:

➤ *Three BESS Facilities*

➤ *Extension of BESS Area A.*

➤ *Footprint: 5.7 ha*

➤ *BESS capacity: 150 MW with four hours standby time.*

➤ *Lithium Battery Technologies, such as Lithium Iron Phosphate, Lithium Nickel Manganese Cobalt oxides or Vanadium Redox flow technologies are being considered*

Reason for amendment

The holder of the EA has applied to change the coordinates for BESS Area A to allow optimisation of the existing space.

Amendment 10: Update Condition 13 Page 12 of EA:

From:

"13. The site layout map attached under Appendix E dated 11 December 2023 in the Final EIAr dated December 2023 is hereby approved and must be adhered to."

To:

"13. The site layout map attached under Appendix 21 and titled: Map of the Proposed Development in the Part 2 Amendment of the Existing Environmental Authorisation Motivational Report dated November 2024 is hereby approved and must be adhered to."

Reason for amendment

Condition 13 is updated in terms of Regulation 27(4) of the EIA Regulations 2014, as amended to approve the amended layout submitted with Part 2 Amendment of Existing Environmental Authorisation Motivational Report date November 2024.

Amendment 11: Update Condition 14 Page 12 of EA:

From:

"14. The Environmental Management Programme (EMPr) submitted as part of the Final EIAR dated December 2023 (Appendix I) is approved and must be implemented and adhered to."

To:

"14. The Amended Environmental Management Programme (EMPr) submitted as part of the Part 2 Amendment of the Existing Environmental Authorisation Motivational Report dated November 2024 is approved and must be implemented and adhered to."

Reason for amendment

Condition 14 is updated in terms of Regulation 27 (4) of the EIA Regulations 2014, as amended to approve the amended EMPr submitted with Part 2 Amendment of Existing Environmental Authorisation Motivational Report date November 2024.

This proposed amendment letter must be read in conjunction with the EA dated 02 February 2024.

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

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

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 prescribes the appeal procedure to be followed. Kindly include a copy of this document (National Appeal Regulations, 2014) with the letter of notification to interested and affected parties in this matter.

Should any person wish to lodge an appeal against this decision, he/she must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party, and any organ of state with interest in the matter within twenty (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@dfre.gov.za

By hand: Environment House
473 Steve Biko Road
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.

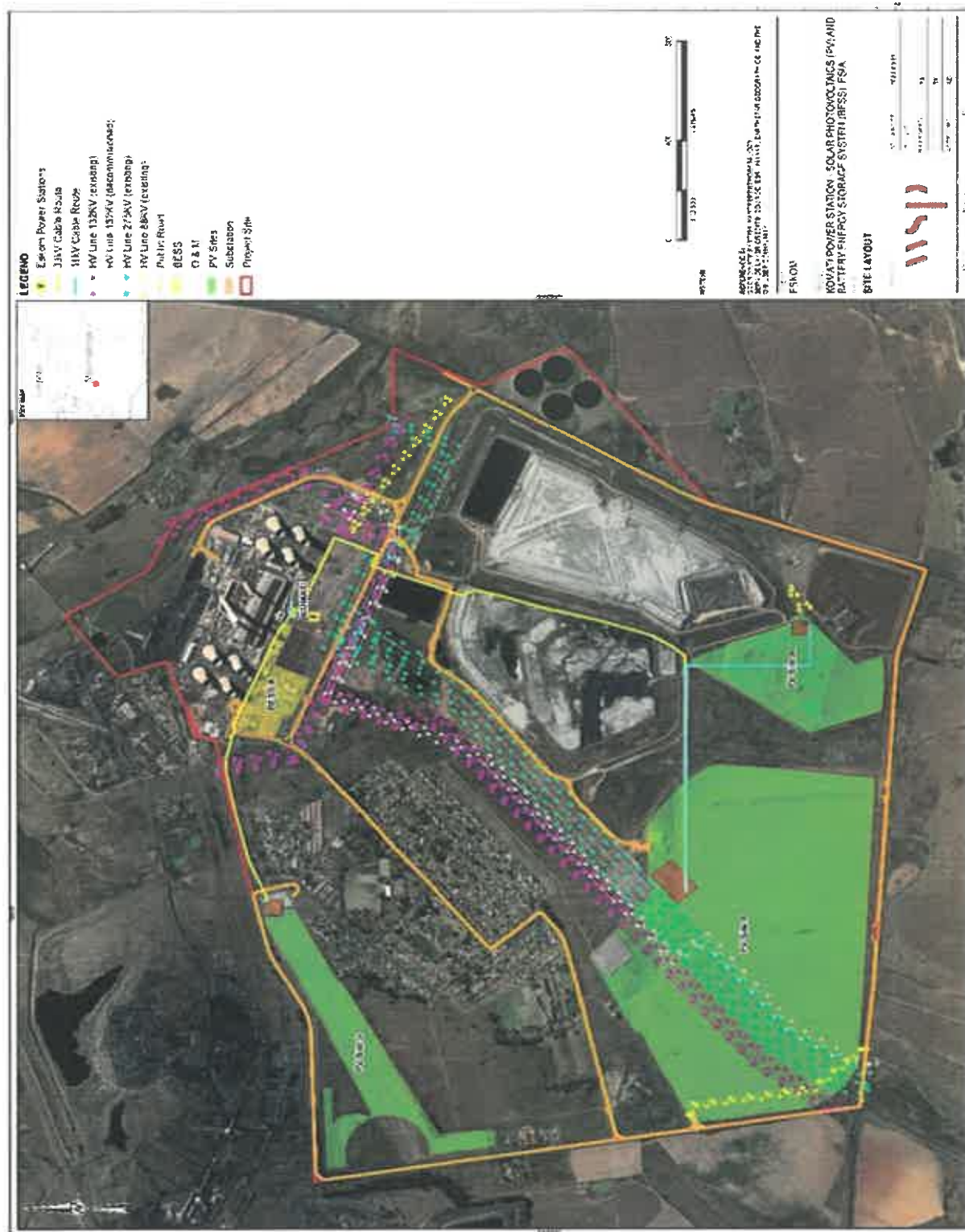
To obtain the prescribed appeal form and for guidance on the submission of appeals, please visit the Department's website at https://www.dfre.gov.za/documents/forms#legal_authorisations or request a copy of the documents at appeals@dfre.gov.za.

Yours faithfully


Dr Sabelo Malaza
Chief Director: Integrated Environmental Authorisations
Department of Forestry, Fisheries & the Environment
Date: 10/04/2025

cc:	Ms Ashlea Strong	WSP Group Africa (Pty) Ltd	Email: ashlea.strong@wsp.com
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Annexure 1: Amended Layout Plan





APPENDIX B: APPEAL REGULATIONS

GOVERNMENT NOTICE

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

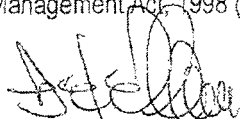
No. R. 205

12 March 2015

NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998
(ACT NO. 107 OF 1998)

NATIONAL APPEAL AMENDMENT REGULATIONS

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby amend the National Appeal Regulations, 2014 published under Government Notice No. 993 in Government Gazette No. 38303 of 8 December 2014, in terms of Section 44(1)(a), 43(4) and 47A(1)(b) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) as set out in the Schedule hereto.



BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

Definition

1. In these Regulations—
“the principal Regulations” means the National Appeal Regulations, 2014, published under Government Notice No. R. 993 of 8 December 2014.

Amendment of Regulation 1 of the principal Regulations

2. Regulation 1 of the principal Regulations are amended by—
 - (a) the insertion after the definition of “decision-maker” of the following definitions:
“Environmental Impact Assessment Regulations, 2006” means the Environmental Impact Assessment Regulations, 2006 published under Government Notice No. R. 385 of 21 April 2006;
“Environmental Impact Assessment Regulations, 2010” means the Environmental Impact Assessment Regulations, 2010 published under Government Notice No. R. 543 of 2 August 2010;” and

- (b) placing the definition of “applicant” in the correct alphabetical order after “appellant”

Amendment of regulation 10 of the principal Regulations

3. Regulation 10 of the principal Regulations is hereby amended—

- (a) by the substitution for sub-regulation (2) of the following sub-regulation:

“(2) An appeal lodged after 8 December 2014 against a decision taken—

- (a) in relation to a waste management license or integrated in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), which followed the processes in the regulations referred to in paragraph (b) and (c);
- (b) in terms of the Environmental Impact Assessment Regulations, 2006; or
- (c) in terms of the Environmental Impact Assessment Regulations, 2010,

must despite the repeal of the regulations referred to in paragraphs (b) and (c) be dispensed with in terms of the Environmental Impact Assessment Regulations, 2010 as if those regulations have not been repealed: Provided in the instance where a decision was taken after 8 December 2014, but prior to the publication of the National Appeal Amendment Regulations, 2015, and the applicant was informed in such decision to follow a different appeal process than the process indicated in sub-regulation (2), the appeal process indicated in such decision must be followed, unless otherwise informed by the relevant appeal authority.”; and

- (b) by the addition of the following sub-regulations:

(3) For all decisions, other than decisions in sub-regulation (2)—

- (a) an appeal lodged after 8 December 2014 against a decision taken prior to 8 December 2014, must follow the appeal process applicable at the time of the decision; and
- (b) an appeal lodged after 8 December 2014 against a decision taken after 8 December 2014, in terms of the legislation indicated in regulation 3 of these Regulations, must be submitted, processed and considered in terms of these Regulations.”

Short title

4. These regulations are called the National Appeal Amendment Regulations, 2015

GOVERNMENT NOTICES

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

No. R. 993**8 December 2014**

NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998
(ACT NO. 107 OF 1998)

NATIONAL APPEAL REGULATIONS

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby make the regulations pertaining to the processing, consideration of, and decision on appeals, under section 44(1)(a) read with section 43(4) of the National Environmental Management Act, 1998 (Act No. 107 of 1998), as set out in the Schedule hereto.



BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

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CHAPTER 1

INTERPRETATION AND PURPOSE OF REGULATIONS

Interpretation

1. (1) In these Regulations any word or expression to which a meaning has been assigned in the Act, and unless the context requires otherwise—

“appeal administrator” means a holder of an office in the Department or Provincial Department responsible for environmental affairs who administers the appeal on behalf of the appeal authority;

“appeal authority” is the Minister, the MEC or a person delegated the power to decide on appeals by the Minister or MEC, as the case may be;

“appellant” means any person who is entitled to submit an appeal in terms of the legislation referred to in regulation 3(1) of these Regulations;

“decision-maker” means an official who has been delegated the authority to make a decision in terms of the laws referred to in regulation 3(1) of these Regulations;

“applicant” means a person to whom a decision has been issued in terms of the Act or specific environmental management Act;

“independent”, in relation to a person appointed as a member of an appeal panel or a person providing an appeal authority with expert advice as contemplated in regulation 6 of these Regulations, means—

- (a) that such a person has no business, financial, personal or other interest in the appeal in respect of which that person is appointed in terms of these Regulations other than fair remuneration for work performed in connection with that appeal; and
- (b) that there are no circumstances that may compromise the objectivity of that person in performing such work;

“the Act” means the National Environmental Management Act, 1998 (Act No. 107 of 1998).

- (2) When a period of days must be reckoned in terms of these Regulations, the period must be reckoned as from the start of the day following that particular day to the end of the last day of the period, but if the last day of the period falls on a Saturday, Sunday or public holiday, that period must be extended to the end of the next day which is not a Saturday, Sunday or public holiday, and the period of 15 December to 5 January must be excluded from the reckoning of days.
- (3) Where a prescribed timeframe is affected by one or more public holidays, the timeframe must be extended by the number of public holiday days falling within that timeframe.

Purpose of Regulations

2. The purpose of these Regulations is to regulate the procedure contemplated in section 43(4) of the Act relating to the submission, processing and consideration of, a decision on an appeal.

Application of Regulations

3. (1) These Regulations are applicable to an appeal in terms of section 43 of the Act to the Minister or MEC against a decision taken in terms of the:

- (a) Environment Conservation Act, 1989 (Act No. 73 of 1989);
- (b) National Environmental Management Act, 1998 (Act No. 107 of 1998);
- (c) National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);
- (d) National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004); or
- (e) National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008);

and subordinate legislation made in terms of any of these Acts.

- (2) No appeal is available if the Minister or MEC took the decision himself or herself in his or her capacity as the competent authority, issuing authority or licensing authority.
- (3) An appeal against a decision by an official or municipal manager acting under delegated authority from a metropolitan, district or local municipality must be submitted, processed and considered in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

CHAPTER 2

ADMINISTRATION AND PROCESSING OF APPEALS

Appeal submission

4. (1) An appellant 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:

- (a) the date that the notification of the decision for an application for an environmental authorisation or a waste management licence was sent to the registered interested and affected parties by the applicant; or
 - (b) the date that the notification of the decision was sent to the applicant by the competent authority, issuing authority or licensing authority, in the case of decisions other than those referred to in paragraph (a).
- (2) An appeal submission must be—
- (a) submitted in writing in the form obtainable from the appeal administrator; and
 - (b) accompanied by—
 - (i) a statement setting out the grounds of appeal;
 - (ii) supporting documentation which is referred to in the appeal submission; and
 - (iii) a statement, including supporting documentation, by the appellant to confirm compliance with regulation 4(1) of these Regulations.

Responding statement

5. The applicant, the decision-maker, interested and affected parties and organ of state must submit their responding statement, if any, to the appeal authority and the appellant within 20 days from the date of receipt of the appeal submission.

Appeal panel

6. (1) If the appeal authority reasonably believes that expert advice must be sought or that an appeal panel must be appointed, the appeal administrator must source an independent expert or constitute an independent appeal panel, or both, within 10 days from the date of receipt of an instruction from the appeal authority.
- (2) The appeal panel contemplated in subregulation (1) may consist of such number of independent experts and with such expertise as the Appeal Authority may deem necessary under the circumstances;
- (3) The expert or appeal panel must provide advice to the appeal administrator within 10 days from the receipt of an instruction from the appeal administrator.

Recommendations and decisions on appeals

7. (1) The appeal administrator must make a recommendation on the appeal to the appeal authority within 30 days of receipt of the responding statement referred to in regulation 5 of these Regulations, in the event that an independent expert has not been sourced or an independent appeal panel has not been constituted.
- (2) The appeal administrator must make a recommendation on the appeal to the appeal authority within 10 days of receipt of the advice referred to in regulation 6(2) of these Regulations, in the event that an independent expert has been sourced or an independent appeal panel has been constituted.
- (3) The appeal authority must reach a decision on an appeal, and notify the appellant, applicant, and any registered interested and affected party, within 20 days of the recommendation on the appeal by the appeal administrator.
- (4) The decision contemplated in subregulation (3) must contain written reasons for the decision.

Communication

8. (1) A person may deliver documents in terms of these regulations by using one of the delivery methods referred to in section 47D of the Act.
- (2) In order to meet the time periods determined in these regulations, the person referred to in subregulation (1), must also email, fax or hand deliver the document to the recipient, if the document is delivered by ordinary mail or registered mail.

CHAPTER 3

GENERAL MATTERS

Repeal of regulations

9. The regulations mentioned in the Table in Annexure 1 to these Regulations are hereby repealed or amended to the extent set out in the third column of the Table.

Transitional arrangements

10. (1) An appeal lodged prior to the commencement of these Regulations, and which is still pending when these Regulations takes effect, must be finalised in terms of the legislation that applied at the time when the appeal was lodged.
- (2) An appeal lodged after the commencement of the Environmental Impact Assessment Regulations, 2014 must be submitted, processed and considered in terms of these Regulations.

Short title and commencement

11. These Regulations are called the National Appeal Regulations, 2014, and take effect on the date of publication in the *Gazette*.

ANNEXURE 1

REGULATIONS REPEALED		
Date and year of publication	Short title	Extent of repeal
Government Notice No. R.543, <i>Gazette No. 33306</i> of 18 June 2010.	Environmental Impact Assessment Regulations, 2010.	Chapter 7.