

APPEALS PROCEDURE IN TERMS OF CHAPTER 7 OF THE NEMA EIA REGULATIONS, 2010 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

APPLICANT	INTERESTED AND AFFECTED PARTIES (IAPs)
1. Receive notice of Environmental Authorisation (EA) from the relevant Competent Authority (CA).	1. Receive notice of Environmental Authorisation (EA) from Applicant/Consultant.
2. Within 20 days after the date of the decision, notify the relevant Appeal Authority of the intention to appeal.	2. Within 20 days of date of the decision, notify the relevant Appeal Authority of the intention to appeal.
3. The Applicant must within 10 days of having submitted the notice of intention to appeal, as indicated in 2 above, provide to each persons and organ of state who was a registered IAP- 3.1 a copy of the notice of intention to appeal; and 3.2 a notice indicating that the appeal submission will be made available on the day of lodging it with the Appeal Authority and where and for what period the appeal submission will be available for inspection by such registered IAP.	3. Appellant must within 10 days of having submitted the notice of intention to appeal, as indicated in 2 above, provide the applicant with- 3.1 a copy of the notice of intention to appeal; and 3.2 a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.
4. The appeal must be submitted to the Appeal Authority within 30 days after the lapsing of the 20 days period which is allowed for the submission of the notice of intention to appeal.	4. The appeal must be submitted to the Appeal Authority within 30 days after the lapsing of the 20 days period which is allowed for the submission of the notice of intention to appeal.
5. A person or organ of state that receives notice of an appeal may submit a responding statement to the relevant Appeal Authority or designated organ of state within 30 days from the date that the appeal submission was lodged with the Appeal Authority.	5. An applicant that receives notice of an appeal may submit a responding statement to the relevant Appeal Authority or designated organ of state within 30 days from the date the appeal submission was lodged with the Appeal Authority.

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;
 - c) the MEC if the decision was issued by the Head of Department (or another official) acting in his/her capacity as the delegated Competent Authority; or
 - d) the delegated organ of state where relevant.

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;
 - c) the MEC must be submitted to the provincial department responsible for environmental affairs; or
 - d) the delegated organ of state, where relevant, must be submitted to the delegated organ of state.

3. An appeal must be-
 - a) on an official form obtainable or published by the relevant Appeal Authority;
 - b) accompanied by:
 - a statement setting out the grounds of appeal;
 - supporting documentation which is referred to in the appeal and is not available to the relevant Appeal Authority;
 - a statement that the appellant has complied with regulation 60 (2) or (3) has been complied with together with copies of the notices referred to in regulation 60; and
 - the prescribed appeal fee, if any.

4. A copy of the official appeal form can be obtained from:
Mr TH Zwane, Senior Legal Administrator (Appeals): Tel: 012 310 3929, TZwane@environment.gov.za



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Environmental Authorisation

Authorisation register number:	<i>12/12/20/1581</i>
NEAS reference number:	<i>DEAT/EIA/12086/2010</i>
Last amended:	<i>First issue</i>
Holder of authorisation:	<i>MOYENG ENERGY (PTY) LTD</i>
Location of activity:	<i>WESTERN CAPE PROVINCE: Saldanha Bay Local Municipality</i>

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.

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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 activity/ies specified below.

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 No. 107 of 1998) and the Environmental Impact Assessment Regulations, 2006 the Department hereby authorises –

MOYENG ENERGY (PTY) LTD

with the following contact details –

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Moyeng Energy (Pty) Ltd
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to undertake the following activities (hereafter referred to as "the activities"):

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Activity 1(a) *"The construction of facilities or infrastructure, including associated structures or infrastructure, for the generation of electricity where the electricity output is 20 megawatts or more; or the elements of the facility covers a combined area in excess of 1 hectare."*

Activity 1(l) *"The construction of facilities or infrastructure, including associated structures or infrastructure, for the transmission and distribution of above ground electricity with a capacity of 120 kilovolts or more."*

Activity 2 *"Any development activity, including associated structures and infrastructure, where the total area of the developed area is or is intended to be 20 hectares or more."*

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Activity 1 (m): *"The construction of facilities or infrastructure, including associated structures or infrastructure, for any purpose in the one in ten year flood line or a river or stream, or within 32 metres from the bank of a river or stream where the flood line is unknown, excluding purposes associated with existing residential use, but including –*

- i) canals;*
- ii) channels;*
- iii) bridges;*
- iv) dams, and*
- v) weirs".*

Activity 7: *"The above-ground storage of a dangerous good, including petrol, diesel, liquid petroleum gas or paraffin, in containers with a combined capacity of more than 30 cubic metres and less than 1000 cubic metres at any one location or site".*

Activity 12: *"The transformation or removal of indigenous vegetation of 3 hectares or more or of any size where the transformation or removal would occur within a critically endangered or an endangered ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004)".*

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- Activity 13: *"The abstraction of groundwater at a volume where any general authorisation issued in terms of the National Water Act, 1998 (Act No 36 of 1998) will be exceeded".*
- Activity 15: *"The construction of a road that is wider than 4 metres or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres long".*
- Activity 16(b): *"The transformation of undeveloped, vacant or derelict land to residential, mixed, retail, commercial, industrial or institutional use where such development does not constitute infill and where the total area to be transformed is bigger than 1 hectare".*
- Activity 15: *"The construction of a road that is wider than 4 metres or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres long."*
- Activity 12: *"The transformation or removal of indigenous vegetation of 3 hectares or more or of any size where the transformation or removal would occur within a critically endangered ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, Act 2004 (Act No 10 of 2004)."*
- Activity 20: *"The transformation of an area zoned for use as public open space or for a conservation purpose to another use."*

-for the proposed establishment of the West Coast One Wind Energy Facility and its associated infrastructure on a site located near Vredenburg, as described in the Final Environmental Impact Report (EIR) dated November 2010 at the following Farm portions: Portions 4 and 5 of Farm 95 (Zoutkasfontein); Portion 1, 3, 4, 5, 6 and 9 of farm 46 (Frans Vlei) ; Portion 0 (remaining extent), Portion 1 (remaining extent) and Portion 4 of Farm 40 (Boebezaks kraal); and Remaining extent of Farm 145 (Klippekraal). The facility will be situated on an area of approximately 28km² in extent which falls within the jurisdiction of the Saldanha Bay Local Municipality in the Western Cape Province, hereafter referred to as "the property".

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The facility is proposed to have a generating capacity of up to 138MW. Each turbine would be between 1.8MW and 3MW in capacity, depending on the turbine selected for implementation. The infrastructure associated with the wind energy facility includes:

- Up to 55 wind turbine units (up to 80m to 100m high steel tower and nacelle; rotor diameter up to 90m- consisting of 3 blades of up to 45m in length).
- Concrete foundations to support the turbine towers.
- Internal roads (approximately 6m in width) linking the wind turbines and other infrastructure on the site.
- Underground (approximately 1m deep) 33kV cabling, linking the wind turbines to a 33/132kV substation.
- One 33/132kV substation to be located within the development site. This substation will have a high-voltage (HV) yard footprint of approximately 80m x 90m.
- A 132kV overhead power line feeding into the electricity distribution network/grid to the Aurora Substation, thus the preferred Alternative 2.
- An operation and maintenance facility, including a storage building (40m X 20m), security office (10m x 5m) and a car park area (15m x 7m).

Conditions

1. **Scope of authorisation**
 - 1.1 The preferred route Alternative 2 for the proposed 132kV overhead power line feeding into the electricity distribution network/grid at Aurora Substation is approved.
 - 1.2 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.
 - 1.3 The holder of the authorisation shall be 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.
 - 1.4 The activities authorised may only be carried out at the property as described above.
 - 1.5 The recommendations and mitigation measures recorded in the Final Environmental Impact Report (EIR) dated November 2010 must be adhered to.
 - 1.6 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 *SP*

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.

- 1.7 This activity must commence within a period of three (3) years from the date of issue. 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.
- 1.8 Commencement with one activity listed in terms of this authorisation constitutes commencement of all authorised activities.
- 1.9 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.
- 1.10 Relevant legislation that must be complied with by the holder of this authorisation includes, inter alia:
- Archaeological remains, artificial features and structures older than 60 years are protected by National Heritage Resources Act, 1999 (Act No. 25 of 1999). Should any archaeological artefacts be exposed during excavation for the purpose of construction, construction in the vicinity of the finding must be stopped immediately. A registered Heritage Specialist must be called to the site for inspection. Under no circumstances shall any heritage material be destroyed or removed from the site and the relevant heritage resource agency must be informed about the finding. Heritage remains uncovered or disturbed during earthworks must not be disturbed further until the necessary approval has been obtained from the South African Heritage Resources Agency and/or any of their delegated provincial agencies.
 - Occupational Health and Safety Act, 1993 (Act 85 of 1993).
 - National Water Act, 1998 (Act 36 of 1998).
 - National Forests Act, 1998 (Act No. 84 of 1998).
 - National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004).
 - Land Use Planning Ordinance, 1985 (Ord 15 of 1985).
 - National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003) and its Regulations.
 - Civil Aviation Act, 2009 (Act 13 of 2009)

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- Should fill material be required for any purpose, the use of borrow pits must comply with the provisions of the Minerals and Petroleum Resources Development Act, 2002 (Act 28 of 2002) administered by the Department of Minerals.

1.11 The holder of an environmental authorisation has the responsibility to notify the competent authority of any alienation, transfer and change of ownership rights in the property on which the activity is to take place.

2. Notification of authorisation

2.1 The holder of the authorisation must notify every registered interested and affected party, in writing and within 10 (ten) calendar days of the date of this environmental authorisation, of the decision to authorise the activity.

2.2 The notification referred to must –

2.2.1 specify the date on which the authorisation was issued;

2.2.2 inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the Environmental Impact Assessment (EIA) Regulations, 2010;

2.2.3 advise the interested and affected party that a copy of the authorisation will be furnished on request; and

2.2.4 give the reasons for the decision.

3. Management of the activity

3.1 The Construction and Operational Environmental Management Plan (COEMP) submitted as part of the Application for EA must be amended and submitted to the Department for written approval prior to commencement of the activity. The recommendations and mitigation measures recorded in the EIR dated November 2010 must be incorporated as part of the COEMP. Once approved, the COEMP must be implemented and adhered to.

3.2 Please note that this Department is compiling a guideline document on renewable energy installations. Once this guideline has been published in the Government Gazette in terms of section 24J of the National Environmental Management Act, 1989 (Act No. 107 of 1998) (NEMA), it will be expected that you adhere to the relevant sections of the guideline.

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4. Monitoring

- 4.1 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 EMP.
- 4.2 The ECO shall be appointed before commencement of any authorised activity/ies.
- 4.3 Once appointed, the name and contact details of the ECO must be submitted to the Director: Compliance Monitoring of the Department.
- 4.4 The ECO shall keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO. In addition the ECO shall be responsible for the keeping of a complaints register and a record of responses to complaints received.
- 4.5 The ECO shall remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is ready for operation.
- 4.6 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.
- 4.7 Noise monitoring at the potential receptors must be conducted on a quarterly basis. Annual feedback regarding noise monitoring must be presented to all stakeholders and other interested and affected parties in the area. This report must also be made available to all potential sensitive receptors in the area, or the contents explained to them to ensure that they understand all the potential risks that the development of a wind energy facility may have on them and their families.

5. Recording and reporting to the Department

- 5.1 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.
- 5.2 The holder of the authorisation must submit an environmental audit report upon completion of the construction and rehabilitation activities.
- 5.3 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 EMP.

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6. Commencement of the activity

- 6.1 The authorised activities shall not commence within thirty (30) days of the date of signature of the authorisation.
- 6.2 The applicant must obtain a Water Use Licence Authorisation (WULA) from the Department of Water Affairs (DWA) prior to the commencement of the project should the applicant impact on any wetland or water resource. The WULA must be submitted to the *Director: Environmental Impact Evaluation* at the Department.
- 6.3 The applicant must submit a final layout plan for the entire wind energy facility for approval to the department and the layout should indicated the following:
- Turbine positions;
 - Foundation footprint;
 - Permanent laydown area footprint;
 - Construction period laydown footprint;
 - Internal roads indicating width (construction period width and operation period width) and with numbered sections between the other site elements which they serve (to make commenting on sections possible);
 - Wetlands, drainage lines, rivers, stream and water crossing of roads and cables indicating the type of bridging structures that will be used;
 - Heritage sites that will be affected by the turbines and associated infrastructure;
 - Substation(s) and/or transformer(s) sites including their entire footprint;
 - Cable routes and trench dimensions (where they are not along internal roads);
 - Connection routes to the distribution/transmission network;
 - Cut and fill areas at turbine sites along roads and at substation/transformer sites indicating the expected volume of each cut and fill;
 - Borrow pits;
 - Spoil heaps (temporary for topsoil and subsoil and permanently for excess material);
 - Buildings including accommodation; and
 - All "no-go" areas
- 6.4 The applicant must appoint a qualified botanical and fauna specialists to ground-truth every turbine footprint and their recommendations must form part of the final layout plan of the wind energy facility and EMP to be submitted to the department for approval.

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6.5 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.

7. Notification to authorities

7.1 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. This notification period may coincide with the period contemplated in 6.1 above.

8. Operation of the activity

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

8.2 The applicant must compile an operational EMP for the operational phase of the activity and submit it to the Department for approval before commencement of the operational phase of the activity.

9. Site closure and decommissioning

9.1 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.

10. Specific conditions

10.1 Avifauna and Bats

10.1.1 A bird monitoring programme must be implemented to document the effect of the operation of the wind energy facility on avifauna and bats. This should commence prior to construction (to provide a benchmark), and continue during operation of the wind energy facility.

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- 10.1.2 The results of the pre-construction bird monitoring programme must inform the final layout and the construction schedule of the wind energy facility.
- 10.1.3 Reports regarding bird monitoring must be submitted to the Western Cape Department of Environmental Affairs and Development Planning (DEADP), Birdlife South Africa, Endangered Wildlife Trust (EWT), CapeNature and this Department on a quarterly basis. The report will assist all stakeholders in identifying potential and additional mitigation measures and to establish protocols for bird monitoring programmes for wind energy development in the country.
- 10.1.4 The baseline data collected and documented during the survey must be shared with the EWT and Birdlife South Africa for a better understanding of the distribution or breeding behaviour of any of the priority species listed in the EIR dated November 2010.
- 10.1.5 Habitat destruction must be kept to an absolute minimum by keeping the lay-down areas as small as possible, reducing the number and size/length of roads and reducing the final extent of developed area.
- 10.1.6 Mitigation measures must be implemented to reduce the risk of erosion and the invasion of alien species.
- 10.1.7 Additional surveys (around Kasteelberg and Klipheuwel/Stemmet's Kop where slope-soaring raptors and Great White Pelicans are most likely to fly) must be undertaken to confirm if high-flying areas should be excluded from the development footprint.
- 10.1.8 The applicant must ensure that lighting on the turbines is kept to a minimum, and is coloured (red or green) and intermittent, rather than permanent and white, to reduce confusion effects for nocturnal migrants.
- 10.1.9 The facility must be designed to discourage their use as perching or nesting substrates by birds.
- 10.2 Vegetation, wetlands and Water Resources**
- 10.2.1 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.
- 10.2.2 A comprehensive habitat rehabilitation plan must be developed for the site. Restoration must be undertaken as soon as possible after completion of construction activities to reduce the amount of habitat converted at any one time and to speed up the recovery to natural habitats.
- 10.2.3 All areas of disturbed soil must be reclaimed using only indigenous grass and shrubs. Reclamation activities should be undertaken as early as possible on disturbed areas.

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- 10.2.4 All electrical collector lines must be buried in a manner that minimizes additional surface disturbance.
- 10.2.5 Construction must include appropriate design measures that allow surface and subsurface movement of water along drainage lines so as not to impede natural surface and subsurface flows. Drainage measures must promote the dissipation of storm water run-off.
- 10.2.6 Topsoil from all excavations and construction activities must be salvaged and reapplied during reclamation.
- 10.2.7 The applicant is required to inform the relevant provincial department and/or this Department should the removal of protected species, medicinal plants and "data deficient" plant species be required.
- 10.2.8 All hard infrastructures should be located within existing areas of Low sensitivity, as far as possible.
- 10.2.9 No turbines, substations, roads, cable trenches and other associated infrastructure shall be placed within any natural vegetation or near any wetlands, streams or rivers.
- 10.2.10 All turbine and infrastructure must be located at least 100m from the edge of any high sensitive areas.
- 10.2.11 Turbine positions 27, 48 and 49 must be moved out of the pockets of remaining natural vegetation and wetlands on the site. Their new positions must be indicated on the revised layout plan to be submitted to the Department for written approval prior to commencement of the activity.
- 10.2.12 All feasible (as determined by Cape Nature) areas of high botanical sensitivity (identified in Helme 2010) must be formally declared and registered as a Contract Nature Reserve with CapeNature's Stewardship Program.
- 10.2.13 Turbine 32 must be relocated from its current position in a pan. If Turbine 32 is not relocated and the cables and internal access roads between turbines 30 to 27 to 13; from turbines 30 to 27 to 13; between turbines 12 and 16; between turbines 5 and 9; and between turbine 7 and the substation are not re-aligned, then a Water Use Licence Authorisation (WULA) must be obtained from the Department of Water Affairs (DWA) to impact on any wetland or water resources prior to the commencement of the project. The WULA must be submitted to the Director: Environmental Impact Evaluation at the Department.

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10.3 Visual Resources

- 10.3.1 The applicant must ensure to reduce visual impact during construction by minimising areas of surface disturbance, controlling erosion, using dust suppression techniques, and restoring exposed solid as closely as possible to their original contour and vegetation.
- 10.3.2 A lighting engineer must be consulted to assist in the planning and placement of light fixtures in order to reduce visual impacts associated with glare and light trespass.
- 10.3.3 Commercial messages and graffiti on turbines must be avoided.

10.4 Air Emissions

- 10.4.1 Dust abatement techniques must be used on unpaved, unvegetated surfaces to minimize airborne dust.
- 10.4.2 Construction materials and stockpiled soils must be covered if they are no source of fugitive dust.
- 10.4.3 Dust abatement techniques must be used before and during surface clearing, excavation, or blasting activities.

10.5 Roads and Ground transportation

- 10.5.1 Existing road infrastructure must be used as far as possible for providing access to the proposed turbine positions. Where no road infrastructure exists, new roads should be placed within existing disturbed areas or environmental conditions must be taken into account to ensure the minimum amount of damage is caused to natural habitats.
- 10.5.2 A transportation plan must be developed, particularly for the transport of turbine components, main assembly cranes and other large pieces of equipment. A permit must be obtained from the relevant transport department for the transportation of all components (abnormal loads) to the sites.
- 10.5.3 A traffic management plan must be prepared for the site access roads to ensure that no hazards would results from the increased truck traffic and that traffic flow would not be adversely impacted.
- 10.5.4 Signs must be placed along construction roads to identify speed limits, travel restrictions, and other standard traffic control information. To minimize impacts on local commuter,

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consideration should be given to limiting construction vehicles travelling on public roadways during the morning and late afternoon commute time.

- 10.5.5 Roads must be designed so that changes to surface water runoff are avoided and erosion is not initiated.
- 10.5.6 Internal access roads must be located away from drainage bottoms and avoid wetlands, if feasible.
- 10.5.7 Internal access roads must be located to minimize stream crossings. All structures crossing streams must be located and constructed so that they do not decrease channel stability or increase water velocity.
- 10.5.8 Existing drainage must not be altered, especially in sensitive areas.

10.6 Noise

- 10.6.1 Turbines 4, 4, 6, 8, 13, 23, 24, 25, 28, 29, 37, 38, 39, and 40 must be relocated to an area where it is more than 1km from the downwind receptors. Should the layout change significantly, the new layout must be remodelled/reviewed in terms of the potential noise impact by an independent acoustics specialist. This includes the situation when the existing layout is slightly modified, yet some of the potentially problematic turbines are still within a radius of 1km from a potentially sensitive receptor.
- 10.6.2 The applicant must appoint an approved noise inspection authority to conduct noise monitoring at the potential sensitive receptors on a quarterly basis. Annual feedback regarding noise monitoring must be presented to all stakeholders.
- 10.6.3 The applicant must ensure that all equipment and machinery are well maintained and equipped with silencers.
- 10.6.4 The applicant must provide a prior warning to the community when a noisy activity is to take place.

10.7 Historical/ Paleontological Resources

- 10.7.1 No turbines, substations, roads, cable trenches and other associated infrastructure should be located around the foot of the archaeological site of Kasteelberg (this include Turbines 53, 51, 50,47, 45,44, 42, 40, 39, 38 and 38). The buffer of at least 2km around Kasteelberg must be discussed and agreed upon further by the applicant and Heritage Western Cape prior to

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commencement of the project. Such agreement must be submitted to the Director: Environmental Impact Evaluation at the Department.

- 10.7.2 If there are any changes to the layout of the turbines, then additional survey work will be required in order to ensure that no sites are directly impacted and/or to identify the need for an excavation permit.
- 10.7.3 Heritage sites in proximity of Turbine 2, 32, 37 and 47 must be fenced off by an archaeologist to ensure that they are not impacted by roads or tower footings.
- 10.7.4 Turbines must be placed at least 2km from the local road to Stompneus Bay, 2 km from the R45 route to Paternoster and 500m from the farmsteads of Rooiheuwal and Klipheuwal.
- 10.7.5 Field samples of natural and artificial rock exposure within the study area as a whole must be undertaken by a qualified palaeontologist to identify specific areas or horizons of paleontological sensitivity on the ground and to determine if fossils could occur.

10.8 Hazardous Materials and Waste Management

- 10.8.1 No dumping or temporary storage of any materials may take place outside designated and demarcated laydown areas, and these must all be located within areas of Low botanical sensitivity.
- 10.8.2 Hazardous and flammable substances must be stored and used in compliance to the applicable regulations and safety instructions. Hazardous substances must not be stored where there could be accidental leakage into subterranean water.
- 10.8.3 The applicant must ensure that an effective monitoring system is put in place to detect any leakage or spillage of all hazardous substances.
- 10.8.4 Hazardous and flammable substances must be stored and used in compliance to the applicable regulations and safety instructions. Furthermore no chemicals must be stored nor any vehicle maintenance must occur within 350 m of the temporal zone of wetlands, whether a drainage line with or without an extensive floodplain or hillside wetlands.
- 10.8.5 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 licensed in terms of section 20 (b) of the National Environment Management Waste Act, 2008 (Act No. 59 of 2008).

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10.9 Storm Water

10.9.1 A comprehensive storm water management plan must be developed for the site to ensure compliance with applicable regulation and prevent off-site migration of contaminated storm water or increased soil erosion. A comprehensive storm water management plan should form part of the COEMP.

10.10 Human Health and Safety

- 10.10.1 A health and safety programme must be developed to protect both workers and the general public during construction, operation and decommissioning of the wind energy facility. The programme must establish a safety zone for wind turbine generator from residences and occupied buildings, roads, right-of-ways, and other public access areas that is sufficient to prevent accidents resulting from the operation of wind turbine generators.
- 10.10.2 Potentials interference with public safety communication systems (e.g. radio traffic related to emergency activities) must be avoided.
- 10.10.3 The applicant must ensure that the operation of the wind facility has minimal electromagnetic interference (EMI) (i.e. impacts to microwave, radio and television transmissions) and should comply with the relevant communication regulation.
- 10.10.4 The applicant must obtain a written permit or approval from the South Africa Civil Aviation Authority that the wind facility will not interfere with the performance of aerodrome radio Communication, Navigation and Surveillance (CNS) equipment especially the radar prior to commencement of the activity. The approval/permit must be submitted to the Director: Environmental Impact Evaluation.
- 10.10.5 The applicant must train safety representatives, managers and workers in workplace safety. The construction process must be compliant with all safety and health measures as prescribed by the relevant act.
- 10.10.6 Liaison with land owners/farm managers is to be done prior to construction in order to provide sufficient time for them to plan agricultural activities. If possible, construction should be scheduled to take place within the post-harvest, pre planting season, when fields are lying fallow.

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10.11 Excavation and Blasting Activities

- 10.11.1 Constraints identified in the preliminary geology and soils report must be verified in a detailed geotechnical investigation which must be commissioned by the applicant before the design process is finalised.
- 10.11.2 Foundations and trenches must be backfilled with originally excavated materials as much as possible. Excess excavation materials must be disposed of only in approved areas or, if suitable, stockpiled for use in reclamation activities.
- 10.11.3 Borrow materials must be obtained only from authorized and permitted sites.
- 10.11.4 Anti-erosion measures such as silt fences must be installed in disturbed areas.

10.12 Overhead Power Line


- 10.12.1 A walk-through survey of the final survey power line corridor must be undertaken by a botanical specialist, an ornithologist and a heritage specialist to identify areas where mitigation may be required.
- 10.12.2 All sections of the proposed power line passing over, or in close proximity of grasslands, rivers, wetlands, and dams must be marked with suitable bird flight diverters in order to deter large birds from colliding with any powerline. Additional areas of high sensitivity along the preferred alignment must be identified by an avifaunal specialist for the fitment of anti-collision devices according to Eskom Transmission Guidelines.
- 10.12.3 A Search and Rescue (S&R) operation of all the Red Data as well as rare endangered plants must be undertaken on the exact spots selected on which the pylons will be erected by a suitable qualified botanist. All plants present must be surveyed and collected for documentation at South National Biodiversity Institute (SANBI) and particular species, especially those which are rare and threatened species are moved to nurseries for re-establishment after construction and/or relocated to protected areas.

11. General

- 11.1 A copy of this authorisation must be kept at the property where the activity/ies will be undertaken. The authorisation 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.

- 11.2 Where any of the applicant's contact details change, including the name of the responsible person, the physical or postal address and/or telephonic details, the applicant must notify the Department as soon as the new details become known to the applicant.
- 11.3 The holder of the authorisation must notify 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. 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 regulations.
- 11.4 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: 16 March 2011



Ms Sibusisiwe Hlela

ACTING CHIEF DIRECTOR: ENVIRONMENTAL IMPACT MANAGEMENT

Department of Environmental Affairs

Annexure 1: Reasons for Decision

1. Background

The applicant, Moyeng Energy (Pty) Ltd applied for the following activities:

GN R387

Activity 1(a) *"The construction of facilities or infrastructure, including associated structures or infrastructure, for the generation of electricity where the electricity output is 20 megawatts or more; or the elements of the facility covers a combined area in excess of 1 hectare."*

Activity 1(l) *"The construction of facilities or infrastructure, including associated structures or infrastructure, for the transmission and distribution of above ground electricity with a capacity of 120 kilovolts or more."*

Activity 2 *"Any development activity, including associated structures and infrastructure, where the total area of the developed area is or is intended to be 20 hectares or more."*

GN R386

Activity 1 (m): *"The construction of facilities or infrastructure, including associated structures or infrastructure, for any purpose in the one in ten year flood line or a river or stream, or within 32 metres from the bank of a river or stream where the flood line is unknown, excluding purposes associated with existing residential use, but including –*

- i) canals;*
- ii) channels;*
- iii) bridges;*
- iv) dams, and*
- v) weirs".*

SP1

- Activity 7: "The above-ground storage of a dangerous good, including petrol, diesel, liquid petroleum gas or paraffin, in containers with a combined capacity of more than 30 cubic metres and less than 1000 cubic metres at any one location or site".

- Activity 12: "The transformation or removal of indigenous vegetation of 3 hectares or more or of any size where the transformation or removal would occur within a critically endangered or an endangered ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004)".

- Activity 13: "The abstraction of groundwater at a volume where any general authorisation issued in terms of the National Water Act, 1998 (Act No 36 of 1998) will be exceeded".

- Activity 15: "The construction of a road that is wider than 4 metres or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres long".

- Activity 16(b): "The transformation of undeveloped, vacant or derelict land to residential, mixed, retail, commercial, industrial or institutional use where such development does not constitute infill and where the total area to be transformed is bigger than 1 hectare".

- Activity 15 "The construction of a road that is wider than 4 metres or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres long."

- Activity 12 "The transformation or removal of indigenous vegetation of 3 hectares or more or of any size where the transformation or removal would occur within a critically endangered ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, Act 2004 (Act No 10 of 2004)."

SP

Activity 20 "The transformation of an area zoned for use as public open space or for a conservation purpose to another use."

-for the proposed establishment of the 138 MW West Coast One Wind Energy Facility and associated infrastructure on the Farm portions: Portions 4 and 5 of Farm 95 (Zoutkasfontein); Portion 1, 3, 4, 5, 6 and 9 of farm 46 (Frans Vlei); Portion 0 (remaining extent), Portion 1 (remaining extent) and Portion 4 of Farm 40 (Boebezaks kraal); and Remaining extent of Farm 145 (Klippekraal) near Vredenburg which falls within the jurisdiction of the Saldanha Bay Local Municipality in the Western Cape Province, as described in the Final Environmental Impact Report (EIR) dated November 2010.

The applicant appointed Savannah Environmental (Pty) Ltd to undertake an environmental assessment process in accordance with the EIA Regulations, 2006.

2. 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 November 2010;
- b) The comments received from the Directorate: Biodiversity and Conservation, the Western Cape Department of Environmental Affairs and Development Planning (DEADP), Heritage Western Cape, CapeNature, Cape West Coast Biosphere, West Coast District Municipality and interested and affected parties as included in the EIR dated November 2010;
- c) Mitigation measures as proposed in the EIR dated November 2010 and the EMP;
- d) The information contained in the specialist studies contained in the EIR.
- e) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998).

3. 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.

SLP

- a) Details provided of the qualifications of the EAP indicate that the EAP is competent to carry out the environmental impact assessment procedures.
- b) The findings of all the specialist studies conducted and their recommended mitigation measures.
- c) The need for the proposed project is to contribute towards the renewable energy generation target set by the Government, socio-economic and environmental sustainable growth, and kick start and stimulate the renewable energy industry in South Africa.
- d) The EIR dated November 2010 included a description of the environment that may be affected by the activity and the manner in which the physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity.
- e) The EIR dated November 2010 identified all legislation and guidelines that have been considered in the preparation of the EIR dated November 2010.
- f) The methodology used in assessing the potential impacts identified in the EIR dated November 2010 and the specialist studies have been adequately indicated.
- g) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2006 for public involvement.

4. Findings

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

- The Social Impact Assessment (SIA) indicated that it would appear that none of the landowners who stand to be directly affected by the proposed WC1 WEF are opposed to the development.
- The majority of impacts associated with the proposed wind energy facility are considered to be significant, but may be reduced to acceptable and sustainable levels by adherence to proposed mitigation scheme.
- A comprehensive programme to fully monitor the actual impacts of the facility on the broader avifauna of the area will be undertaken, from pre-construction and into the operational phase of the project.
- The Visual Assessment concluded that the potential visual impact of the proposed wind energy facility is not considered to be a fatal flaw for the development.

SP

- The identification and assessment of impacts are detailed in the EIR dated November 2010 and sufficient assessment of the key identified issues and impacts have been completed.
- The procedure followed for impact assessment is adequate for the decision-making process.
- The proposed mitigation of impacts identified and assessed adequately curtails the identified impacts.
- All legal and procedural requirements have been met.
- The information contained in the EIR dated November 2010 is accurate and credible.
- EMP measures for the construction and operation of the development were proposed and included in the EIR 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 application is accordingly granted.

