

Zitholele Consulting

Reg. No. 2000/000392/07

PO Box 6002 Halfway House 1685, South Africa
Building 1, Maxwell Office Park, Magwa Crescent West
c/o Allandale Road & Maxwell Drive, Waterfall City, Midrand
T : 011 207 2060 F : 086 674 6121 E : mail@zitholele.co.za



Our Ref : 21206-L-001

04 May 2022

Dear Stakeholder

AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 18 MAY 2017 FOR THE DEVELOPMENT OF THE ESKOM AGULHAS (VRYHEID) 400/132KV 2X500 MVA TRANSMISSION SUBSTATION AND LOOP-IN LOOP-OUT LINES WITHIN THE SWELLENDAM LOCAL MUNICIPALITY, WESTERN CAPE PROVINCE.

- **NOTIFICATION OF ENVIRONMENTAL AUTHORISATION ISSUED**

Zitholele Consulting (Pty) Ltd, on behalf of Eskom Holdings SOC Ltd, submitted an application for amendment of the existing Environmental Authorisation for the above-mentioned project to extend the validity period of the EA for a further five (5) years starting from 18 May 2022 to 18 May 2027. An extension of time is required for commencement of the construction phase of the Eskom Agulhas 400/132kV 2x500 MVA transmission substation and loop-in loop-out lines.

The need for the extension of the validity period relate to unforeseen delays on the commencement of the construction period. After the EA was issued, Eskom needed to negotiate with the landowners for the proposed substation and powerline construction. There were also delays in the acquisition of the land, due to the landowner's resistance to sell their properties. This resulted in high purchase prices, and delays were experienced by the tender committee in approving such funds. There were also delays in the procurement of the Geotechnical services to complete the detail designs of the project.

An amendment of the Environmental Authorisation Application for the above mentioned Application was submitted to the Department of Forestry, Fisheries and Environment (DFFE) on the 22 March 2022, for evaluation and decision-making.

Date of Environmental Authorisation granted

In keeping with the requirements outlined in Regulation 4(2) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) Environmental Impact Assessment Regulations, 2014, as amended, this letter serves to inform you that DFFE has granted an amendment to the Environmental Authorisation (EA) issued on 18 May 2017 for the development of the Eskom Agulhas 400/132kv 2x500 MVA transmission substation and loop-in loop-out lines within the Swellendam Local Municipality. The amendment to EA was granted on 26 April 2022, approving the extension of validity of period, and must be read with the EA in question dated 18 May 2017. The EA Amendment Letter received from the DFFE is attached as Annexure A to this notification letter.

Reason for the Decision

The factors considered by the DFFE and reasons for amendment of the EA is contained in the EA Amendment Letter attached in **Annexure A** of this notification letter.

Notice of Appeal Process

In accordance with Chapter 2 of the National Appeal Regulations, 2014, should you or any person affected by this decision wish to appeal any aspect of the decision, you or a person affected by this decision may lodge your appeal in the prescribed manner with the appeal administrator.

The appeal submission is summarised below for the benefit of potential appellants:

- 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).*
- 4.(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.*

The National Appeal Regulations, 2014, is attached as Annexure B to this notification letter as prescribed by the DFFE in the EA Amendment Letter.

Appeal administrator and appeal submission information

Your appeal must be submitted in the prescribed appeal form obtainable from the Department's website at https://www.environment.gov.za/documents/forms#legal_authorisations or request a copy of the document at appeals@environment.gov.za.

All appeals must be submitted in writing in the prescribed form through one of the following submission channels to:

The Director: Appeals and Legal Review:

Submission via Email: appeals@environment.gov.za

Submission via Postal Address:

Private Bag X447
Pretoria
0001

Submission to Physical Address:

Environment House
473 Steve Biko
Acadia
Pretoria
0083

Notification of Applicant and EAP

As prescribed in Regulation 4(1) above, please send a copy of the appeal to the applicant (Eskom) and the EAP (Zitholele Consulting) at the addresses below:

Eskom Holdings SOC Limited

Ms. Rudzani Ranwedzi
Tel: 011 516 7584
Email: RanwedRP@eskom.co.za
Postal Address: PO Box 1091, Johannesburg, 2000

Zitholele Consulting (Pty) Ltd

Dr Mathys Vosloo
Tel: 011 207 2060
Fax: 086 674 6121
Email: mathysv@zitholele.co.za
Postal Address: PO Box 6002, Halfway House, 1685

An electronic copy of the EA and relevant information are available on Zitholele Consulting's website: <https://www.zitholele.co.za/environmental/> under the heading "Vryheid Substation EA Amendment".

Yours faithfully



Dr. Mathys Vosloo
ZITHOLELE CONSULTING (PTY) LTD

Annexure A: EA 14-12-16-3-3-2-927-AM1



forestry, fisheries & the environment

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

Private Bag X 447· PRETORIA 0001· Environment House 473 Steve Biko Road, Arcadia· PRETORIA

DFFE Reference: 14/12/16/3/3/2/927/AM1

Enquiries: Makhosazane Yeni

Telephone: (012) 399 9400 **E-mail:** MYeni@dffe.gov.za

Ms Martina Phiri
Eskom Holdings SOC Limited
P.O. Box 1091
JOHANNESBURG
2000

Tel no: 011 800 3550

Email: PhiriM@eskom.co.za

PER EMAIL / MAIL

Dear Ms Phiri

AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 18 MAY 2017 FOR THE DEVELOPMENT OF THE ESKOM AGULHAS 400/132KV 2X500 MVA TRANSMISSION SUBSTATION AND LOOP-IN LOOP-OUT LINES WITHIN THE SWELLEDAM LOCAL MUNICIPALITY IN WESTERN CAPE PROVINCE

The Environmental Authorisation (EA) issued for the abovementioned application by this Department on 18 May 2017, your application for amendment of the EA received by the Department on 22 March 2022 and the acknowledgement letter dated 01 April 2022, 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 Environmental Impact Assessment Regulations, 2014 as amended, has decided to amend the EA dated 18 May 2017, as follows:

Amendment 1: To extend the validity period of the EA:

The validity period of the EA (which was due to lapse on 18 May 2022) is hereby extended by an additional five (5) years to **18 May 2027**. As such, Condition 7 of the EA dated 18 May 2017 is amended as follows:

"7. This activity must commence within a period of ten (10) years from the date of issue of this authorisation (i.e. the authorisation lapses on 18 May 2027). 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."

Reason for amendment:

The applicant applied to extend the validity period of the EA as Eskom needed to negotiate with the landowners for the proposed substation and power line construction. There were delays in the acquisition of the land, due to the landowner's resistance to sell their properties. This resulted in high purchase prices, and delays were experienced by the tender committee in approving such funds. There were also delays in the procurement of the Geotechnical services to complete the detail designs of the project

MS

The Department is aware that the environment changes constantly, as a result it might be significantly different from the one that existed at the time of the issuing of this EA, hence the validity of the EA cannot exceed a maximum period of 10 years. Failure to commence with construction activities within the maximum 10 year period, your EA will be deemed to have lapsed and a new application for Environmental Authorisation will have to be lodged.

This proposed amendment letter must be read in conjunction with the EA dated 18 May 2017.

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.

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 as well as the provisions regarding the submission of appeals that are contained in the Regulations.

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



Ms Millicent Solomons
Acting Chief Director: Integrated Environmental Authorisations
Department of Forestry, Fisheries and the Environment
Date: 26/04/2022.

cc:	Dr. Mathys Vosloo	Zitholele Consulting (Pty) Ltd	Tel: 011 207 2060	Email: mathysv@zitholele.co.za
	Ms. Adri La Meyer	Western Cape Department of Environmental Affairs and Development Planning	Tel: 021 483 2887	Email: Adri.Lameyer@westerncape.gov.za
	Mr. Ron Brunings	Swellendam Local Municipality	Tel: 028 514 8537	Email: rbrunings@swellenmun.co.za



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, Arcadia- PRETORIA
Tel: (+27 12) 399 9000

Enquiries: Devinagie Bendeman Telephone: 012 399 9337 E-mail: ybendeman@ddfe.gov.za

Ms. Milicent Solomons
Director: Prioritized Infrastructure Projects

Dear Mrs Solomons

APPOINTMENT AS ACTING CHIEF DIRECTOR: INTEGRATED ENVIRONMENTAL AUTHORIZATIONS FOR THE PERIOD OF 25 APRIL 2022 UNTIL 31 OCTOBER 2022

I hereby inform you that I have decided to appoint you as the Acting Chief Director: Integrated Environmental Authorizations for the period of 25 April to 31 October 2022 whilst Mr Sabelo Mafaza is fulfilling his temporary reassignment function at the Forestry Branch.

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

Your appointment in the above acting position remains subject to the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994), as amended, the Government Employees Pension Fund Act, 1996 (Proclamation No. 21 of 1996), 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 Standard, Departmental Policies and other applicable legislations with the Republic of South Africa. You are therefore advised to make yourself familiar with the provisions of these legislations and policies and the amendments thereof. (Copies of Departmental policies can be obtained from the Human Resource Office).

Please accept my heartfelt gratitude for all your assistance on behalf of the department.

Yours sincerely

Ms. Devinagie Bendeman
Deputy Director-General: RCSM (Regulatory Compliance and
Sector Monitoring)

Date 20 April 2022

ACKNOWLEDGEMENT

I ACCEPT / ~~DO NOT ACCEPT~~
appointment as Acting Chief
Director: Integrated Environmental
Authorizations

Signed:

Date: 20/04/2022.

Annexure B: National Appeal Regulations 2014

(12 March 2015 – to date)

NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998

(Gazette No. 19519, Notice No. 1540. Commencement date: 29 January 1999 [Proc. No. 8, Gazette No. 19703])

NATIONAL APPEAL REGULATIONS, 2014

*Government Notice R993 in Government Gazette 38303 dated 8 December 2014. Commencement date:
8 December 2014.*

As amended by:

*National Appeal Amendment Regulations, 2015 - Government Notice R205 in Government Gazette 38559
dated 12 March 2015. Commencement date: 12 March 2015.*

I, Boma 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.

(Signed)

BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

TABLE OF CONTENTS

CHAPTER 1

INTERPRETATION [*sic*] AND PURPOSE OF REGULATIONS

1. Interpretation
2. Purpose of Regulations
3. Application of Regulations

CHAPTER 2

ADMINISTRATION AND PROCESSING OF APPEALS

4. Appeal submission
5. Responding statement
6. Appeal panel
7. Recommendations and decisions on appeals
8. Communication

CHAPTER 3

GENERAL MATTERS

9. Repeal of regulations
 10. Transitional arrangements
 11. Short title and commencement
- Annexure 1: Regulations Repealed

CHAPTER 1

INTERPRETATION AND PURPOSE OF REGULATIONS

1. Interpretation

- (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;

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

(Definition of "applicant" placed in the correct alphabetical order by regulation 2(b) of Government Notice R205 dated 12 March 2015)

"**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;

"**Environmental Impact Assessment Regulations, 2006**" means the Environmental Impact Assessment Regulations, 2006 published under Government Notice No. R. 385 of 21 April 2006;

(Definition of "Environmental Impact Assessment Regulations, 2006" inserted by regulation 2(a) of Government Notice R205 dated 12 March 2015)

"**Environmental Impact Assessment Regulations, 2010**" means the Environmental Impact Assessment Regulations, 2010 published under Government Notice No, R. 543 of 2 August 2010;

(Definition of "Environmental Impact Assessment Regulations, 2010" inserted by regulation 2(a) of Government Notice R205 dated 12 March 2015)

"**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.

2. Purpose of Regulations

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.

3. Application of Regulations

(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

4. Appeal submission

(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.

5. Responding statement

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.

6. Appeal panel

- (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.

7. Recommendations and decisions on appeals

- (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.

8. Communication

- (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

9. Repeal of regulations

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.

10. Transitional arrangements

- (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 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.

(Regulation 10(2) substituted by regulation 3(a) of Government Notice R205 dated 12 March 2015)

- (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.

(Regulation 10(3) added by regulation 3(b) of Government Notice R205 dated 12 March 2015)

11. Short title and commencement

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, Gazette No. 33306 of 18 June 2010	Environmental Impact Assessment Regulations, 2010.	Chapter 7