



**Western Cape
Government**

Environmental Affairs and
Development Planning

DIRECTORATE: LAND MANAGEMENT
REGION 1

EIA REFERENCE NUMBER: 16/3/1/1/B4/45/1112/13
EXEMPTION REFERENCE NUMBER: 16/3/1/4/B4/45/1044/14
ENQUIRIES: Samornay Smidt
DATE OF ISSUE: 2014 -11- 18

The Board of Trustees
 Sterhuis Trust
 PO Box 13
 DURBANVILLE
 7561

Attention: Mr André Daniël Kruger

Tel: (021) 976 3194
 Fax: (021) 976 4012

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION AND EXEMPTION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT AMENDMENT REGULATIONS, 2010: THE CONSTRUCTION OF A COMMUNICATION MAST ON PORTION 3 OF FARM WELGEVONDEN NO. 218, STELLENBOSCH.

With reference to your application for the abovementioned, find below the outcome with respect to this application.

ENVIRONMENTAL AUTHORISATION AND EXEMPTION

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment Amendment Regulations, 2010, ("EIA Regulations") the competent authority herewith **grants environmental authorisation and exemption** to the applicant to undertake the list of activities specified in section B below with respect to Alternative 2, described in the Final Basic Assessment Report ("BAR") dated 26 September 2014.

The applicant is herewith exempted from the following provisions of the NEMA EIA Regulations:

- Regulation 10(2)(d) of Government Notice ("GN") No. R. 543, which reads as follows:

2nd Floor, 1 Dorp Street, Cape Town, 8001
 Tel: +27 21 483 8528/4349 fax: +27 21 483 3633
 E-mail: Samornay.Smidt@westerncape.gov.za

Private Bag X9086, Cape Town, 8000
 www.westerncape.gov.za/eadp

"10(2) The applicant must, in writing, within 12 days of the date of the decision of the application -

(d) publish a notice –

- (i) informing interested and affected parties of the decision;
- (ii) informing interested and affected parties where the decision can be accessed; and
- (iii) drawing the attention of interested and affected parties to the fact that an appeal may be lodged against the decision in terms of Chapter 7 of these Regulations, if such appeal is available under the circumstances of the decision,

in the newspapers contemplated in Regulation 54(2)(c) and (d) and which newspaper was used for the placing of advertisements as part of the public participation process."

The granting of this environmental authorisation and exemption (hereinafter referred to as the Environmental Authorisation) is subject to compliance with the conditions set out in section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Board of Trustees: Sterhuis Trust
c/o Mr. André Daniël Kruger
PO Box 13
DURBANVILLE
7561

Tel: (021) 976 3194
Fax: (021) 976 4012

The abovementioned applicant is the holder of this Environmental Authorisation and is hereinafter referred to as "the applicant".

B. LIST OF ACTIVITIES AUTHORISED

Government Notice No. R546 of 18 June 2010 –

Activity Number: 3

"The construction of masts or towers of any material or type used for telecommunication broadcasting or radio transmission purposes where the mast:

*(a) is to be placed on a site not previously used for this purpose, and
(b) will exceed 15 metres in height,*

but excluding attachments to existing buildings and masts on rooftops,

(d) In Western Cape:

- i. In an estuary;*
- ii. All areas outside urban areas;*
- iii. Areas inside urban areas but outside commercial and industrial areas.*

The abovementioned list is hereinafter referred to as, "the listed activity".

- 3.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 3.1.1 the outcome of the application;
 - 3.1.2 the reasons for the decision as included in Annexure 1;
 - 3.1.3 the date of the decision; and
 - 3.1.4 the date of issue of the decision;
- 3.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of Chapter 7 of the EIA Regulations detailed in section F below;
- 3.3 draw the attention of all registered I&APs to the manner in which they may access the decision; and
- 3.4 provide the registered I&APs with:
 - 3.4.1 the name of the holder (entity) of this Environmental Authorisation;
 - 3.4.2 name of the responsible person for this Environmental Authorisation;
 - 3.4.3 postal address of the holder;
 - 3.4.4 telephonic and fax details of the holder; and
 - 3.4.5 e-mail address if any.
4. Seven calendar days notice, in writing, must be given to the competent authority before commencement of construction activities.
 - 4.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 4.2. The notice must also include proof of compliance with the following conditions described herein:
Conditions: 2, 3 and 13
5. The holder is responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
6. Any changes to, or deviations from the scope of the description set out in section B above must be accepted or approved, in writing, by the competent authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the competent authority 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 to apply for further authorisation in terms of the applicable legislation.
7. The applicant must notify the competent authority in writing, within 24 hours thereof if any condition herein stipulated is not being complied with.
8. The Environmental Management Programme ("EMP") submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.

An application for amendment to the EMP must be submitted to the competent authority if any amendments are to be made to the EMP and this may only be implemented once the amended EMP has been authorised by the competent authority.

The EMP must be included in all contract documentation for all phases of implementation.

9. A copy of the Environmental Authorisation and the EMP must be kept at the site where the listed activity will be undertaken. Access to the site referred to in section C above must be granted and, the Environmental Authorisation and the EMP must be produced to any authorised official representing the competent authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein. The Environmental Authorisation and the EMP must also be made available for inspection by any employee or agent of the applicant who works or undertakes work at the site.
10. The applicant must submit an application for amendment of the Environmental Authorisation to the competent authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated, save that such application for amendment shall not include the personal details of the holder of the Environmental Authorisation. Where any of the applicant's contact details change, the physical or postal address and/ or telephonic details, the applicant must notify the competent authority in writing as soon as the new details become known to the applicant as follows:
 - 10.1 the applicant must submit an originally signed notification to the competent authority stating that he/she wishes the rights and obligations contained herein to be transferred, and including (a) confirmation that the Environmental Authorisation is still in force (i.e. that the validity period has not yet expired or the activity/ies was/were lawfully commenced with); (b) the contact details of the person who will be the new holder; (c) the reasons for the transfer; (d) an originally signed letter from the proposed new holder acknowledging the rights and obligations contained in the Environmental Authorisation and indicating that he/she has the ability to implement the mitigation and management measures and to comply with the stipulated conditions; and
 - 10.2 the competent authority will issue a written confirmation to confirm the transfer if the transfer is found to be appropriate.
11. Non-compliance with a condition of this Environmental Authorisation or EMP may result in suspension of this Environmental Authorisation and may render the holder liable for criminal prosecution.
12. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable to the undertaking of the listed activity.

13. The holder must appoint a suitably experienced environmental control officer ("ECO"), or site agent where appropriate, for the construction phase of implementation before commencement of any land clearing or construction activities to ensure compliance with the EMP, and the conditions contained herein.
14. An integrated waste management approach, which is based on waste minimisation and incorporates reduction, recycling, re-use and disposal, where appropriate, must be employed. Any solid waste must be disposed of at a landfill licensed in terms of the applicable legislation.
15. No surface or ground water may be polluted due to any actions on the site. The applicable requirements with respect to relevant legislation pertaining to water must be met.
16. The applicable requirements with respect to relevant legislation pertaining to occupational health and safety must be adhered to.
17. Should any heritage remains be exposed during excavations or any actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in accordance with the applicable legislation). Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape. Heritage remains include: archaeological remains (including fossil bones and fossil shells); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features; rock art and rock engravings; shipwrecks; and graves or unmarked human burials.

A qualified archaeologist must be contracted where necessary (at the expense of the applicant and in consultation with the relevant authority) to remove any human remains in accordance with the requirements of the relevant authority.

18. The following measures must be implemented to limit the visual impact:
 - 18.1 the height of the communication mast must be restricted to 34m;
 - 18.2 the tower must be painted a suitable non-reflective colour; and
 - 18.3 the equipment room must blend in with the existing surroundings.

F. APPEALS

Appeals must comply with the provisions contained in Chapter 7 of the NEMA EIA Regulations.

1. An appellant must –

- 1.1. submit a notice of intention to appeal to the Minister, within 20 (twenty) calendar days of the date of the decision;
 - 1.1.1 if the appellant is an applicant, the appellant must provide each person and Organ of State which was a registered

interested and affected party in relation to the applicant's application, within 10 days of having submitted the notice with the Minister, with—

- (a) a copy of the notice lodged with the Minister; and
- (b) a notice indicating that the appeal submission will be made available on the day of lodging it with the Minister and where and for what period the appeal submission will be available for inspection by such person or Organ of State.

1.1.2 if the appellant is a person other than an applicant, the appellant must provide the applicant, within 10 days of having lodged the notice with the Minister, with—

- (a) a copy of the notice lodged with the Minister and
- (b) a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.

1.2. submit the appeal within 30 (thirty) calendar days after the lapsing of the 20 (twenty) calendar days contemplated in Regulation 60(1), for the submission of the notice of intention to appeal;

1.3 that a responding statement may be made on the appeal within 30 (thirty) calendar days from the date the appeal submission was lodged with the Minister; and

1.4 if a respondent introduces any new information not dealt with in the appeal submission of the appellant, the appellant is entitled to submit an answering statement to such new information to the Minister within 30 days of receipt of the responding statement.

2. A person, Organ of State or applicant who submits a responding or answering statement in terms of Regulation 63 must within 10 (ten) calendar days of having submitted the responding or answering statement, serve a copy of the statement on the other party.

3. All notice of intention to appeal and appeal forms must be submitted in hard copy by means of one of the following methods:

By post: Western Cape Ministry of Local Government,
Environmental Affairs and Development Planning
Private Bag X9186
CAPE TOWN
8000

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Jaap de Villiers (Tel: 021-483 3721)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

PLEASE NOTE: NO appeal, responding and answering statement may be lodged by e-mail.

4. A prescribed notice of intention to appeal form and appeal form as well as assistance regarding the appeal processes is obtainable from the office of

the Minister at: Tel. (021) 483 3721, E-mail
Jaap.DeVilliers@westerncape.gov.za or URL
<http://www.westerncape.gov.za/eadp>.

G. DISCLAIMER

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this Environmental Authorisation shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Your interest in the future of our environment is appreciated.

Yours faithfully



MR. HENRI FORTUIN
DIRECTOR: LAND MANAGEMENT (REGION 1)

DATE OF DECISION: 18-11-14

CC: (1) Mr J Neethling (Johan Neethling Environmental Services)
(2) Mr S van der Merwe (Stellenbosch Municipality)
(3) Mr B van Zyl (Bertie van Zyl Beplanners)

Fax: (086) 544 4868
Fax: (021) 889 9899
Fax: (021) 872 2676

FOR OFFICIAL USE ONLY:

EIA REFERENCE NUMBER:	16/3/1/1/B4/45/1112/13
NEAS EIA REFERENCE NUMBER:	WCP/EIA/0001670/2014
EXEMPTION REFERENCE NUMBER:	16/3/1/4/B4/45/1044/14
NEAS EXEMPTION REFERENCE NUMBER:	WCP/EIA/EX/0000557/2014

ANNEXURE 1: REASONS FOR THE DECISION

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The information contained in the application form dated 12 December 2013, the Final BAR dated 26 September 2014 and the EMP, as well as the application for exemption, submitted together with the Final BAR;
- b) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation, Alternatives and Exemption (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of NEMA;
- d) The comments received from I&APs and the responses provided thereon, as included in the Final BAR dated 26 September 2014; and
- e) The sense of balance of the negative and positive impacts and proposed mitigation measures.

No site visits were conducted. The competent authority had sufficient information before it to make an informed decision without conducting a site visit.

All information presented to the competent authority was taken into account in the consideration of the application for Environmental Authorisation. A summary of the issues which, according to the competent authority, were the most significant reasons for the decision is set out below.

1. Public Participation

The Public Participation Process ("PPP") conducted for the Basic Assessment application included the following:

- Distribution of Background Information Documents, to key stakeholders and relevant Organs of State, on 26 February 2014;
- Placing a site notice at the entrance of the farm on 26 February 2014;
- An advertisement was placed in "Die Burger" newspaper on 26 February 2014 and in the "Cape Times" on 28 February 2014;
- The availability of the draft BAR, to registered I&APs and relevant Organs of State, for a 40 day commenting period from 28 May 2014; and
- The availability of the final BAR, to registered I&APs and relevant Organs of State, for comment from 26 August 2014.

The following authorities were consulted and had no objections:

- Stellenbosh Municipality;
- Cape Winelands District Municipality;
- Department of Agriculture, and

- CapeNature.

All the concerns raised by I&AP's were responded to and adequately addressed during the PPP. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMP, to adequately address the concerns raised.

The Department concurs with the environmental assessment practitioner's responses to the issues raised during the PPP and has included appropriate conditions in this Environmental Authorisation.

2. Alternatives

The following layout alternatives were considered for the construction of the communication mast:

Alternative 1

This alternative entails the construction of a 34m high communication mast and its associated infrastructure, lower down the slope of the Bottelary Hill, at the edge of the existing vineyards (co-ordinates: 33° 54' 31.42" S, 18° 46' 37.47" E). All the equipment will be housed in a stone clad building and the site will be enclosed by a 14m x 14m square fence.

This alternative was rejected for the following reasons:

- The technical requirements, for the field of transmission, do not include the wider area up to the Helderberg and the Peninsula;
- A new access road would be required;
- Higher cost associated with the construction of infrastructure required for connection to the existing Eskom power point; and
- The site is not located on a terraced area.

Alternative 2 (Herewith authorised)

This alternative entails the construction of a 34m high communication mast and its associated infrastructure, on top of the Bottelary Hill, near a survey beacon where a number of properties converge (co-ordinates: 33° 54' 29.15" S, 18° 46' 39.52" E). All the equipment will be housed in a stone clad building and the site will be enclosed by a 14m x 14m square fence.

This alternative is preferred for the following reasons:

- The technical requirements, for the field of transmission, do include the wider area up to the Helderberg and the Peninsula;
- The existing access road will be used to access the site;
- The site is closer to the existing Eskom power point;
- The site is located on an old terraced area; and
- The site is located in the pine plantation and no natural vegetation will be impacted upon.

"No-Go" Alternative

This alternative entails not erecting the communication mast. This option was not preferred as it will not contribute towards improving network coverage in the area.

3. Impacts, assessment and mitigation measures

3.1. Activity Need and Desirability

The proposed communication mast will provide improved communication coverage to the community in the surrounding area.

3.2 Visual Impacts

The communication mast will be located within a pine plantation and will be isolated from view points lower down the Bottelary Hills. Other masts in the same vicinity already form a visual backdrop. The communication mast will blend into the existing landscape.

3.3 Biophysical Impacts

The communication mast will be constructed on the Bottelary Hills. All activities associated with the construction of the communication mast, including the trenching for the power cable, will be restricted to the old terrace and pine plantation area. The rocky outcrops in the vicinity of the site, as well as other remnant natural vegetation, will not be impacted upon. No watercourses are present on the site. Thus, no biophysical impacts are anticipated.

In summary, the construction, of the communication mast, is predicted to have both negative and positive impacts.

Negative Impacts:

- The communication mast will have a visual impact on the area. However, the communication mast will be on a site located in a pine plantation. Thus, the significance of the impact will be mitigated satisfactorily.

Positive impacts:

- The communication mast will provide more reliable and wider network coverage.
- Temporary employment opportunities will also be available during the construction phase of the proposed development.

The EMP approved as part of this Environmental Authorisation addresses these impacts adequately.

4. National Environmental Management Act Principles

The National Environmental Management Act Principles (set out in section 2 of the NEMA, which apply to the actions of all Organs of State, serve as guidelines by reference to which any Organ of State must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;

- the resolving of actual or potential conflicts of interest between Organs of State through conflict resolution procedures; and
- the selection of the best practicable environmental option.

5. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMP, the competent authority is satisfied that the proposed listed activity will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of NEMA and that any potentially detrimental environmental impacts resulting from the listed activity can be mitigated to acceptable levels.

- Adherence to the NEMA principles,
- Compliance with the conditions stipulated in this Environmental Authorisation, and
- Compliance with the mitigation measures in the EMP.

-END-