



environmental affairs

Department
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

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

DEA Reference: 14/12/16/3/3/1/2109

Enquiries: Ms Azrah Essop

Telephone: (012) 399 8529 E-mail: AEssop@environment.gov.za

Mr Bruce Burger
Eskom Holdings SOC Limited
PO Box 66
NEW GERMANY
3620

Telephone Number: (031) 710 5386
Email Address: bruce.burger@eskom.co.za

PER E-MAIL / MAIL

Dear Mr Burger

ENVIRONMENTAL AUTHORISATION FOR THE PROPOSED ESKOM DISTRIBUTED BATTERY ENERGY STORAGE SYSTEM (BESS) PROJECT (PHASE 1) – PONGOLA SUBSTATION, UPHONGOLO LOCAL MUNICIPALITY WITHIN THE ZULULAND DISTRICT MUNICIPALITY, KWAZULU-NATAL PROVINCE

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

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

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

Your attention is drawn to Chapter 2 of National Environmental Management Act, 1998 (Act No. 107 of 1998) National Appeal Regulations published under Government Notice R993 in Government Gazette No. 38303 dated 08 December 2014 (National Appeal Regulations, 2014), which prescribe the appeal procedure to be followed. Kindly include a copy of this document (National Appeal Regulations, 2014) with the letter of notification to interested and affected parties in this matter.

Should any person wish to lodge an appeal against this decision, he/she must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party, and any organ of state with interest in the matter within 20 days from the date that the notification of the decision was sent to the registered interested and affected parties by the applicant; or the date that the notification of the decision was sent to the applicant by the Department, whichever is applicable.

MS

Appeals must be submitted in writing in the prescribed form to:

Director: Appeals and Legal Review of this Department at the below mentioned addresses.

By email: appeals@environment.gov.za ;

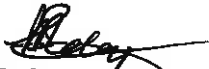
By hand: Environment House
473 Steve Biko Road
Arcadia
Pretoria
0083; or

By post: Private Bag X447
Pretoria
0001

Please note that in terms of Section 43(7) of the NEMA, 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 any activity authorised in the EA 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



Mr Sabelo Malaza
Chief Director, Integrated Environmental Authorisations
Department of Environmental Affairs

Date: 19/06/2020

cc:	Fatima Peer	1World Consultants (Pty) Ltd	Email: fatima@1wc.co.za
	Mr S. B. Ndwandwe	Ujundi Office: KZN Department of Economic Development, Tourism and Environmental Affairs	Email: sbusisozz57@gmail.com
	Nonhlanhla Sibiya	uPhongolo Local Municipality	Email: nonhlanhlam@uphonogolo.gov.za



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Environmental Authorisation

In terms of Regulation 25 of the Environmental Impact Assessment Regulations, 2014, as amended

The Eskom Distributed Battery Energy Storage System (BESS) Project (Ph 1) - Pongola Substation,
uPhongolo Local Municipality, KwaZulu-Natal Province

Zululand District Municipality

Authorisation register number:	<i>14/12/16/3/3/1/2109</i>
Last amended:	<i>First Issue</i>
Holder of authorisation:	<i>Eskom Holdings SOC Limited</i>
Location of activity:	<i>KwaZulu-Natal Province: Farm Lelieshoek No 730, 746 and 730 within Ward 1 of the uPhongolo 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.

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 activities specified below.

Non-compliance with a condition of this environmental authorisation may result in criminal prosecution or other actions provided for in the National Environmental Management Act, 1998 and the 2014 EIA Regulations, as amended.

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 2014 Environmental Impact Assessment Regulations, as amended, the Department hereby authorises –

ESKOM HOLDINGS SOC LIMITED

(hereafter referred to as the **holder of the authorisation**)

with the following contact details –

Mr Bruce Burger
Eskom Holdings SOC Limited
PO Box 66
NEW GERMANY
3620

Telephone Number: (031) 710 5386
Cell phone Number: (079) 704 4230
Fax Number: (086) 663 6166
E-mail Address: bruce.burger@eskom.co.za

to undertake the following activities (hereafter referred to as "the activity") indicated in Listing Notice 1 and Listing Notice 3 of the EIA Regulations, 2014 as amended:

Activity number	Activity description
<p><u>Listing Notice 1, Item 14:</u></p> <p><i>"The development and related operation of facilities or infrastructure, for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 cubic metres or more but not exceeding 500 cubic metres."</i></p>	<p>The capacity of the battery storage containers will be greater than 80 but less than 500m³.</p>
<p><u>Listing Notice 3, Item 10 (d)(ix)(Xii)(aa):</u></p> <p><i>The development and related operation of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of 30 but not exceeding 80 cubic metres.</i></p> <p><i>d. KwaZulu-Natal</i></p> <p><i>ix. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</i></p>	<p>The capacity of the battery storage containers will be greater than 80m³ but less than 500m³.</p>
<p><u>Listing Notice 3, Item 12 (d)(v):</u></p> <p><i>The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</i></p> <p><i>d. KwaZulu-Natal</i></p> <p><i>v. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</i></p>	<p>Approximately 0.94 Hectares of vegetation will be cleared in a CBA area of which 6244m² (0.6244 Hectares) is indigenous vegetation.</p>

as described in the Basic Assessment Report (BAR) dated March 2020 at:

SG 21 Code

N	0	H	U	0	0	0	0	0	0	0	0	0	7	3	0	0	0	0	0
N	0	H	U	0	0	0	0	0	0	0	0	0	7	4	6	0	0	0	0
N	0	H	U	0	0	0	0	0	0	0	0	0	7	4	6	0	0	0	0
N	0	H	U	0	0	0	0	0	0	0	0	0	7	4	6	0	0	0	0
N	0	H	U	0	0	0	0	0	0	0	0	0	7	3	0	0	0	0	0

Site Coordinates	Longitude	Latitude
Point 1	27° 26' 55.03" S;	31° 38' 18.77" E
Point 2	27° 26' 57.34" S;	31° 38' 20.23" E
Point 3	27° 26' 53.32" S; 31°	38' 22.55" E
Point 4	27° 26' 55.62" S; 31°	38' 23.91" E

- for the development and operation of the Pongola Substation Battery Energy Storage System (BESS) in the uPhongolo Local Municipality within the KwaZulu-Natal Province, hereafter referred to as "the property".

The key components include:

- Network integration equipment (e.g. power cables, control cables, isolators, circuit breakers, transformers, etc.); and
- Additional Fencing; security equipment, lighting, masts and/or control room upgrades;
- Earthworks - cutting to create a level platform and importing and compacting of fill material; earth protection layer and stone chip, Cable trenching;
- The temporary laydown area and site camp, internal roads and terrace; and
- Storm water management measures.

The different battery technologies included as part of this Environmental Authorisation are:

- Solid state batteries; and
- Flow batteries.

Conditions of this Environmental Authorisation

Scope of authorisation

1. The development and operation of the Pongola Substation Battery Energy Storage System (BESS) in the uPhongolo Local Municipality within the KwaZulu-Natal Province as described above is hereby approved.
2. Authorisation of the activity is further subject to the conditions contained in this environmental authorisation, which form part of the environmental authorisation and are binding on the holder of the authorisation.
3. The holder of the authorisation is 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.
4. The activities authorised must only be carried out at the property as described above.
5. Any changes to, or deviations from, the project description set out in this environmental authorisation must be approved, in writing, by the Department before such changes or deviations may be effected. In 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 environmental authorisation in terms of the regulations.
6. The holder of an environmental authorisation must apply for an amendment of the environmental authorisation with the competent authority for any alienation, transfer or change of ownership rights in the property on which the activity is to take place.
7. This activity must commence within a period of five (05) years from the date of issue of this environmental authorisation. 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.
8. Commencement with one activity listed in terms of this environmental authorisation constitutes commencement of all authorised activities.

Notification of authorisation and right to appeal

9. The holder of the authorisation must notify every registered interested and affected party, in writing and within 14 (fourteen) calendar days of the date of this environmental authorisation, of the decision to authorise the activity.
10. The notification referred to must –
 - 10.1. specify the date on which the authorisation was issued;
 - 10.2. inform the interested and affected party of the appeal procedure provided for in the National Appeal Regulations, 2014;
 - 10.3. advise the interested and affected party that a copy of the authorisation will be furnished on request; and
 - 10.4. give the reasons of the competent authority for the decision.

Commencement of the activity

11. The authorised activity must not commence until the period for the submission of appeals has lapsed as per the National Appeal Regulations, 2014. In terms of section 43(7), an appeal under section 43 of the National Environmental Management Act, 1998 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 has been finalised.

Management of the activity

12. The Environmental Management Programme (EMPr) submitted as part of the Application for EA is hereby approved. This EMPr must be implemented and strictly adhered to.

Frequency and process of updating the EMPr

13. The EMPr must be updated where the findings of the environmental audit reports, contemplated in Condition 23 below, indicate insufficient mitigation of environmental impacts associated with the undertaking of the activity, or insufficient levels of compliance with the environmental authorisation or EMPr.
14. The updated EMPr must contain recommendations to rectify the shortcomings identified in the environmental audit report.

15. The updated EMPr must be submitted to the Department for approval together with the environmental audit report, as per Regulation 34 of GN R. 982. The updated EMPr must have been subjected to a public participation process, which process has been agreed to by the Department, prior to submission of the updated EMPr to the Department for approval.
16. In assessing whether to grant approval of an EMPr which has been updated as a result of an audit, the Department will consider the processes prescribed in Regulation 35 of GN R.982. Prior to approving an amended EMPr, the Department may request such amendments to the EMPr as it deems appropriate to ensure that the EMPr sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.
17. The holder of the authorisation may apply for an amendment of an EMPr, if such amendment is required before an audit is required. The holder must notify the Department of its intention to amend the EMPr at least 60 days prior to submitting such amendments to the EMPr to the Department for approval. In assessing whether to grant such approval or not, the Department will consider the processes and requirements prescribed in Regulation 37 of GN R. 982.

Monitoring

18. The holder of the authorisation must appoint an 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 environmental authorisation are implemented and to ensure compliance with the provisions of the approved EMPr.
 - 18.1. The ECO must be appointed before commencement of any authorised activities.
 - 18.2. Once appointed, the name and contact details of the ECO must be submitted to the *Director: Compliance Monitoring* of the Department at Directorcompliance@environment.gov.za.
 - 18.3. The ECO must keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
 - 18.4. The ECO must remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is ready for operation.

Recording and reporting to the Department

19. All documentation e.g. audit/monitoring/compliance reports and notifications, required to be submitted to the Department in terms of this environmental authorisation, must be submitted to the *Director: Compliance Monitoring* of the Department at Directorcompliance@environment.gov.za.
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20. The holder of the environmental authorisation must, for the period during which the environmental authorisation and EMPr remain valid, ensure that project compliance with the conditions of the environmental authorisation and the EMPr are audited, and that the audit reports are submitted to the *Director: Compliance Monitoring* of the Department at Directorcompliance@environment.gov.za.
21. The frequency of auditing and of submission of the environmental audit reports must be as per the frequency indicated in the EMPr, taking into account the processes for such auditing as prescribed in Regulation 34 of GN R. 982.
22. The holder of the authorisation must, in addition, submit an environmental audit reports to the Department within 30 days of completion of the construction phase (i.e. within 30 days of site handover) and a final environmental audit report within 30 days of completion of rehabilitation activities.
23. The environmental audit reports must be compiled in accordance with Appendix 7 of the EIA Regulations, 2014, as amended and 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 approved EMPr.
24. 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.

Notification to authorities

25. A written notification of commencement must be given to the Department no later than fourteen (14) days prior to the commencement of the activity. 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, as well as a reference number.

Operation of the activity

26. A written notification of operation must be given to the Department no later than fourteen (14) days prior to the commencement of the activity operational phase.

Site closure and decommissioning

27. Should the activity ever cease or become redundant, the holder of the authorisation must 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.

Specific conditions

28. The holder of the EA must, prior to commencement of construction, inform this Department on the preferred technology or technology mixture of the BESS.
29. The holder of the EA must ensure that the volume of dangerous goods on site does not exceed 500m³.
30. Vegetation clearing must be limited to the required footprint for actual construction works and operational activities. Mitigation measures must be implemented to reduce the risk of erosion and the invasion of alien species.
31. No exotic plants must be used for rehabilitation purposes. Disturbed areas must be rehabilitated as soon as the construction is completed and indigenous species planted around the facility. Indigenous species recommended include *Vachellia tortilis*, *Combretum apiculatum*, *Euclea divinorum*, *Coddia rudis* and appropriate indigenous grass species.
32. The nationally protected *Adansonia digitata* must not be impacted. Should impact be unavoidable due to the project, a licence for its removal must be granted by the relevant authorities.
33. An ongoing Alien Invasive Management Plan must be compiled and implemented prior to construction activities
34. Should any potential human remains be encountered during construction, work in the immediate vicinity of the find must be stopped and the KwaZulu-Natal AMAFA and Research Institute and SAPS must be notified.
35. No heritage material will be removed or relocated without confirmation from KwaZulu-Natal AMAFA and Research Institute as well as an accredited heritage professional specialist.
36. Once the final technology alternative is selected, a detailed fire management and protection plan must be compiled and submitted to the relevant Municipality for consideration prior to undertaking any construction activities.

General

37. A copy of this environmental authorisation, the audit and compliance monitoring reports, and the approved EMPr, must be made available for inspection and copying-
- 37.1. at the site of the authorised activity;
 - 37.2. to anyone on request; and
 - 37.3. where the holder of the environmental authorisation has a website, on such publicly accessible website.
38. 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 holder of the authorisation or his/her 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 holder of the authorisation 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: 19/06/2020



Mr Sabelo Maïaza

Chief Director: Integrated Environmental Authorisations

Department of Environmental Affairs

Annexure 1: Reasons for Decision

1. Information considered in making the decision

In reaching its decision, the Department took, *inter alia*, the following into consideration -

- a) The information contained in the amended application form submitted on 03 March 2020.
- b) The information contained in the final BAR dated March 2020.
- c) The comments received in the final BAR dated March 2020.
- d) Mitigation measures as proposed in the final BAR and the EMPr dated March 2020.
- e) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998).
- f) The information contained in the specialist studies submitted as part of the final BAR dated March 2020.

2. Key factors considered in making the decision

All information presented to the Department was taken into account in the Department's consideration of the application. A summary of the issues which, in the Department's view, were of the most significance is set out below.

- a) The findings of all the specialist studies conducted and their recommended mitigation measures.
- b) The need for the proposed project is in response to electricity challenges in the area, and to increase its capacity to meet the growing demand.
- c) The 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.
- d) The final BAR dated March 2020 identified all legislation and guidelines that have been considered in the preparation of the BAR.
- e) The methodology used in assessing the potential impacts identified in the final BAR dated March 2020 and the specialist studies have been adequately indicated.
- f) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the 2014 EIA Regulations, as amended for public involvement.

3. Findings

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

- a) The identification and assessment of impacts are detailed in the final BAR dated March 2020 and sufficient assessment of the key identified issues and impacts have been completed.
- b) The procedure followed for impact assessment is adequate for the decision-making process.
- c) The proposed mitigation of impacts identified and assessed adequately curtails the identified impacts.
- d) The information contained in the final BAR dated March 2020 is deemed to be accurate and credible.
- e) EMPr measures for the pre-construction, construction and rehabilitation phases of the development were proposed and included in the final BAR dated March 2020 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 authorised activities 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 authorised activities can be mitigated to acceptable levels. The environmental authorisation is accordingly granted.