

Agricentre Buidling  
Cnr Dr James Moroka &  
Stadium Road,  
Private Bag x2039  
Mmabatho, 2735  
Republic of South Africa

**OFFICE OF THE MEC**

Tel: +27 (18) 389 5056  
Fax: +27 (18) 3924377  
E-mail: [nmtjali@nwpg.gov.za](mailto:nmtjali@nwpg.gov.za)  
Enquiries: Nthabiseng Malope

Reference: NWP/EIA/77/2011

**In the appeal matter of:**

Desert Wind Properties 67 Pty Ltd (Mr Clifford Klinkert)

**Appellant**

Dear Sir/Madam,

**REVISED APPEAL DECISION IN TERMS OF SECTION 43(3)(a) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 AGAINST THE DECISION TO REFUSE AN ENVIRONMENTAL AUTHORISATION FOR THE PROPOSED MAGALIES CROSSING ON PORTION 149 OF THE FARM ZANDFONTEIN 447 JQ – NWP/EIA/77/2011**

**1. GENERAL BACKGROUND**

Following the ruling by Judge Hendricks on 15 March 2018 (Case no M 645/2016) that I have to re-consider the appeal made by yourself in terms of Section 43 of the *National Environmental Management Act*, 1998 against the decision to refuse an environmental authorisation for the development of the proposed Magalies Crossing on Portion 149 of the Farm Zandfontein in terms of section 24(2) of the National Environmental Management Act, 1998 (hereafter referred to as "NEMA"), kindly find herewith my revised decision.

During the re-evaluation of my decision, I have considered the following information –

- a) the written submissions and revised lay-out plan by Ivan Pauw Attorneys on behalf of the Appellant (dated 10 July 2018),
- b) the contents of the appeal documents;
- c) the contents of the project file,
- d) The *Constitution of the Republic of South Africa* of 1996,
- e) The *National Environmental Management Act* of 1998 (as amended),
- f) The *Promotion of Administrative Justice Act* of 2000.

## **2. CONSIDERATION OF THE GROUNDS OF APPEAL**

Following the deliberations between officials from the department and the Appellant pertaining to the revised layout plan of the proposed development and taking into account the positive changes made to the layout plans, your application for Environmental Authorisation, in terms of Section 24(2)(a) of the National Environmental Management Act, 1998 as amended (Act No. 107 of 1998) **is granted** in respect of –

Government Notice No. R544 of 18 June 2010 for:

- 1 *The transformation of undeveloped, vacant or derelict land to residential, retail, commercial, recreational, industrial or institutional use, inside an urban area, and where the total area to be transformed is 5 hectares or more but less than 20 hectares. [(Listed activity 23(i))].*

Enclosed please find the Environmental Authorisation and the conditions under which your application is authorised.

Yours faithfully



**M Tlhape (MPL)**

**Member of the Executive Council**

**North West Department of Rural, Environment and Agricultural Development**

Date:

26/07/2018



## Environmental Authorisation

Authorisation register number: **NWP/EIA/77/2011**

Holder of Environmental Authorisation: **Desert Wind Prop 67 (Pty) Ltd  
Mr Clifford Klinkert  
PO Box 99  
BOKSBURG  
1460  
Tel: 011-897 1900  
Email: info@tuckers.co.za**

Location of activity: **North West Province: Ptn 149 farm  
Zandfontein 447 JQ,**

### TABLE OF CONTENTS

			Page no.
A		Definitions	4
B		Environmental Authorisation	5
	1.	Decision	5
	2.	Activity Authorised	5-6
	3.	Conditions	6
	3.1	Scope of Environmental Authorisation	6-7
	4.	Appeal of Environmental Authorisation	7
	5.	Management of the Activity	8
	6.	Monitoring	8
	7.	Recording and Reporting to the Department	9
	8.	Notification to the Authority/Commencement of the Activity	9
	9.	Operation of the activity	9
	10.	Site Closure and Decommissioning of the Activity	9
	11.	Specific Conditions	10-11
	12	General	11
		Annexure 1 – Reasons for Environmental Authorisation	12-13
		Annexure 2 – Appeal Procedures	14-15



## A DEFINITIONS

**“activity”** means an activity identified in any notice published by the Minister or MEC in terms of Section 24D(1)(a) of the Act as a listed activity or specified activity.

**“commence”** means the start of any physical activity, including site preparation and any other activity on the site in furtherance of a listed activity or specified activity, but does not include any activity required for purposes of an investigation or feasibility study as long as such investigation or feasibility study does not constitute a listed activity or specified activity.

**“construction”** means the building, erection or establishment of a facility, structure or infrastructure that is necessary for the undertaking of an activity, but excludes any modification, alteration or expansion of such a facility, structure or infrastructure, and excluding the reconstruction of the same facility in the same location, with the same capacity and footprint.

**“expansion”** means the modification, extension, alteration or upgrading of a facility, structure or infrastructure at which an activity takes place in such a manner that the capacity of the facility or the footprint of the activity is increased.

**“independent”**, in relation to an EAP or a person compiling a specialist report or undertaking a specialised process or appointed as a member of an appeal panel, means-

- (a) that such EAP, specialist or person has no business, financial, personal or other interest in the activity or application in respect of which that EAP, specialist or person is appointed in terms of these Regulations; or
- (b) that there are no circumstances that may compromise the objectivity of that EAP, specialist or person in performing such work

**“public participation process”** means a process in which potential interested and affected parties are given an opportunity to comment on, or raise issues relevant to, specific matters.

**“registered interested and affected party”**, in relation to an application, means an interested and affected party whose name is recorded in the register opened for that application in terms of regulation 55.

**“registered EAP”** means an Environmental Assessment Practitioner registered with an appointed registration authority contemplated in Section 24H of the Act.

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

**“the Department”** means the Department of Rural, Environment and Agricultural Development.

**“state Department”** means any Department or administration in the national or provincial sphere of government exercising functions that involve the management of the environment.

**“the Regulations”** means the Environmental Impact Assessment Regulations, of 18 June 2010.



## **B. Environmental Authorisation**

**Authorisation register number:** NWP/EIA/77/2011

**Holder of Environmental Authorisation:** Desert Wind Prop 67 (Pty) Ltd

**Location of activity:** North West Province: Ptn 149 farm  
Zandfontein 447 JQ,

### **1. Decision**

I am satisfied on the basis of information available to me and subject to compliance with the conditions of this Environmental Authorisation, that the applicant should be authorised to undertake the activity specified below:

### **2. Activities authorised**

By virtue of the powers vested in me, in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) as amended and the Environmental Impact Assessment Regulations of 18 June 2010, I, the MEC for the Department of Rural, Environment and Agricultural Development authorises:-

#### **Desert Wind Prop 67 (Pty) Ltd**

P.O. Box 99

**BOKSBURG**

1460

Tel No.: (011) 897 1900

Fax No.: (011) 918 4226

E-mail [info@tuckers.co.za](mailto:info@tuckers.co.za)

to undertake the following activity:

*The establishment of the Magalies Crossing.*

The project entails construction of the following:

- *Erf 1 comprises of: retail, places of refreshment or entertainment, business use, offices, residential and related uses*
- *Erf 2 comprises of: guest house, conference hall, sport facilities, offices and tourism related activities*
- *Erf 3 comprises of activities as considered/approved by Madibeng Local Municipality*

*On a total development footprint of 6 hectares.*



Details regarding the basis on which the Department reached this decision are set out in Annexure 1.

**Site Location:**

Alternative (S1)	Latitude (S)	Longitude (E)
Ptn149 of the Farm Zandfontein 447 JQ	25° 43' 35.67"	27° 49' 44.75"

The development site is located on Portion 149 of the farm Zandfontein 447 JQ (opposite Damdoryn and Umfula Engen Garage in the vicinity of the town Hartbeespoort Dam), within the jurisdiction of Madibeng Local Municipality, North West Province, hereafter referred to as "the property".

### 3. Conditions

#### 3.1 Scope of Environmental Authorisation

- 3.1.1 The preferred **alternative S1** is approved.
- 3.1.2 Authorisation of the activities is subject to the conditions contained in this Environmental Authorisation, which form part of the Environmental Authorisation and are binding on the holder of the Environmental Authorisation.
- 3.1.3 The holder of the Environmental Authorisation must 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 Environmental Authorisation.
- 3.1.4 The activity authorised may only be carried out at the property as described in Point 2 under site location.
- 3.1.5 This activity must commence within a period of **5 years** from the date of issue. If commencement of the activity does not occur within that period, the Environmental Authorisation **lapses** and a new application for Environmental Authorisation must be made in order for the activity to be undertaken.
- 3.1.6 If the holder of the Environmental Authorisation anticipates that commencement of the activities would not occur within **5 year** period, he/she **must** apply and **show good cause** for an extension of the Environmental Authorisation prior to its expiry date.
- 3.1.7 This Environmental Authorisation does not negate the holder of the Environmental Authorisation's responsibility to comply with any other statutory requirements that may be applicable to the undertaking of the activity.
- 3.1.8 Relevant legislation that must be complied with by the holder of this Environmental Authorisation includes, *inter alia*:
- All provisions of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).
  - All provisions of the National Water Act, 1998 (Act No. 36 of 1998).
  - All provisions of the National Heritage Resources Act, 1999 (Act 25 of 1999)



d) All provisions of the Spatial planning and Land Use Management Act, 2013 (Act No.16 of 2013)

e) The municipal by-laws must be adhered to where applicable.

3.1.9 The holder of an Environmental Authorisation has the responsibility to apply for Environmental Authorisation amendment to the competent authority when any alienation, or deviation from project description / ownership.

#### **4. Appeal of Environmental Authorisation**

4.1 The holder of the Environmental Authorisation must notify every **registered** interested and affected party, in writing and within **twelve (12) days**, of receiving an Environmental Authorisation from the Department.

4.2 The notification referred to in 4.1 must –

4.2.1 Inform interested and affected party of the decision, reasons for decision and where the decision can be accessed.

4.2.2 Advise the interested and affected party that a copy of the Environmental Authorisation and reasons for the decision will be furnished on request.

4.2.3 Specify the date on which the Environmental Authorisation was issued.

4.2.4 Be published in the newspapers contemplated in terms of Regulation 54(2)(c) and (d), which are newspapers that were used for the placing of advertisements as part of the public participation process.

4.2.5 Inform the registered interested and affected party of the appeal procedure provided for in Chapter 7 of the Regulations (Government Notice No. R. 543 of 18 June 2010) (see Annexure 2).

4.3 An appeal against the decision must be lodged in terms of Chapter 7 of Government Notice No. R. 543 of 18 June 2010 in terms of NEMA, 1998, as amended, from the date of this Environmental Authorisation, with:

**The Minister**

**National Department of Environmental Affairs**

**Appeal Administrator: Ziyaad Hassam**

Private Bag X 447

**PRETORIA**

0001

**SOUTH AFRICA**

Tel No: 012 399 9356

Cell No: 083 456 9878

Fax No: 012 359 3625

E-mail: [AppealsDirectorate@environment.gov.za](mailto:AppealsDirectorate@environment.gov.za)

4.4 Such appeal must be lodged in writing by completing Notice of Intention to Appeal Form obtainable from National Department of Environmental Affairs website.



## **5. Management of the activity**

- 5.1 The Environmental Management Programme (EMPr) for the project submitted as part of application for Environmental Authorisation is **hereby approved**.
- 5.2 The recommendations and mitigation measures outlined in the Basic Assessment Report received by the Department on 25 July 2012, together with the conditions of this Environmental Authorisation and revised layout plan dated April 2018 and received by the Department on 13 June 2018 must be adhered to.
- 5.3 Any proposed amendments to the EMPr (as a result of this Environmental Authorisation or otherwise) must be submitted in writing to Director: Environmental Quality Management for approval prior to the amendment being implemented. The proposed amendments will be decided upon by the Department within a period of **30 days** of receiving the submission.
- 5.4 The provisions of the EMPr are an extension of the conditions of the Environmental Authorisation and therefore non-compliance with the EMPr would constitute non-compliance with the Environmental Authorisation.
- 6.1 The overall EMPr must be based on the premise of sound environmental management and cost effective measures that will ensure wherever possible solution to the remediation of the impacts caused by the construction and operation activities.
- 6.2 Notwithstanding the preceding conditions, the holder shall adhere to, and ensure adherence by all contractors, sub-contractors and workers for this project, to all conditions listed herein, and all obligations, commitments, monitoring and proposed mitigation measures as outlined in the EMPr.

## **6. Monitoring**

- 6.3 The holder of Environmental Authorisation has the responsibility to ensure that the mitigation/rehabilitation measures and recommendations referred to in the Basic Assessment Report are implemented, and to ensure compliance with the provisions of the EMPr.
- 6.4 The holder of Environmental Authorisation must ensure communications with key stakeholders in respect to monitoring of compliance with conditions of Environmental Authorisation and the EMPr and also liaise with this Department's Control Environmental Officer Grade B: Environmental Compliance and Enforcement Section.
- 6.5 It is the responsibility of the holder of this Environmental Authorisation to ensure that an ongoing management and monitoring of the impacts of the activities on the environment throughout the life cycle of the activities is put into practice.



## **7. Recording and reporting to the Department**

- 7.1 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.

## **8. Commencement of the activity**

- 8.1 **14 days** written notice must be given to the Control Environmental Officer Grade B: Environmental Compliance and Enforcement Section that the activity will commence in compliance with the issued Environmental Authorisation.
- 8.2 An appeal made against Environmental Authorisation result in it being suspended, therefore the activity must not continue pending the decision by the Minister, as Appeal Authority.

## **9. Operation of the activity**

- 9.1 All relevant Health and Safety legislation as required in South Africa should be strictly adhered to, including but not limited to Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).
- 9.2 The storm water system, especially the discharge points, must be inspected and damaged areas must be repaired if required.
- 9.3 General waste must be collected and disposed of at a licensed landfill site on a weekly basis. Recyclable waste must be recovered for recycling purpose. No temporary dumping of waste is allowed.
- 9.4 The holder of Environmental Authorisation must ensure that water is used in a sustainable manner and that all reasonable measures are taken to conserve it.
- 9.5 An emergency plan must be developed and must include a procedure on how to deal with any fire or explosion incidents which are practical and quick enough for the personnel to undertake to quickly and easily contain any fire.
- 9.6 **The number of people employed for operational phase must be submitted to this Department one (01) month after extending the operational period of activity.**

## **10. Site Closure and Decommissioning of the activity**

- 10.1 Should the activity ever cease or become redundant, the applicant 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.
- 10.2 Should the authorised activity be abandoned or decommissioned, a closure management plan must be compiled and submitted to this Department for approval and the Department must be notified **30 days** prior to decommissioning.



## 11. Specific conditions

- 11.1 To be in line with the Environmental Management Framework (EMF) for Magaliesburg Protected Environment, the development must be restricted to the establishment of Magalies crossing on Portion 149 of the farm Zandfontein 447 JQ, Madibeng Local Municipality, North West Province.
- 11.2 The boundaries of footprint areas are to be clearly defined in the final layout plan, to be submitted to the Madibeng Local Municipality, and it should be ensured that all activities remain within defined footprint areas.
- 11.3 The activity may not commence without the necessary permits/licenses/approvals and/or service agreements, where it is relevant, from or with the relevant regulatory authorities whether national, provincial or local.
- 11.4 In order to preserve landform features, it must be ensured that the siting of facilities is related to environmental resilience and visual screening capabilities of the landscape and also ensure that the scale, density and nature of activities or developments are harmonious and in keeping with the sense of place and character of the area.
- 11.5 Vegetation clearance should be confined to the development footprint and set out to avoid substantial vegetation disturbance, all vegetation outside immediate development footprint must be left intact and undisturbed. All existing plants should be eradicated in accordance with Alien and Invasive Species Regulations, 2014 in terms of Section 97(1) of the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004).
- 11.6 The removal of specifically Marula (*Sclerocarya birrea*) trees must be avoided and rather incorporate it into the landscape features of the development which will assist in the aesthetic value of the site, however, if it cannot be avoided, relevant permit must be obtained from the Department of Forestry and Fisheries.
- 11.7 All plant species of conservation importance (if any) must be removed from the demarcated area prior to commencement and must either be relocated outside of the construction area or donated to the South African National Biodiversity Institute in consultation with Biodiversity Management and Conservation Directorate of this Department.
- 11.8 The proposed development site must be suitably demarcated and construction must be restricted to the demarcated area to minimise damage to the vegetation and exposure of the ground to erosion.
- 11.9 The proposed access road either be from P123-1 or from road P2/4 should comply with the standard specifications of the North West Department of Public Works and Roads
- 11.10 Archaeological remains, artificial features and structures older than **60 years** are protected. Should any archaeological artefacts be exposed during excavation for the purpose of construction, construction in the vicinity of the finding must be stopped immediately and relevant Heritage Resources Agency and North West Provincial Heritage Resources Authority must be informed about the finding.
- 11.11 No surface or ground water must be polluted due to any activities on the property or site. The requirements of the National Water Act, 1998 (Act No. 36 of 1998) must be complied with at all times. The discharge of any pollutants such as cement, concrete, lime, chemicals, etc. into the natural environment and storm water system must strictly be prohibited.



- 11.12 The holder of the Environmental Authorisation **(Desert Wind Prop 67 (Pty) Ltd)** must be responsible for compliance with the provisions for duty of care and remediation of environmental damage in accordance with Section 28 of National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended.

## 12. General

- 12.1 A copy of this Environmental Authorisation must be kept at the property where the activity will be undertaken. The Environmental 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 Environmental Authorisation who works or undertakes work at the property.
- 12.2 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 apply to the Department as soon as the new details become known to the applicant.
- 12.3 The holder of the Environmental Authorisation must notify the Department, in writing and within **48 hours**, if any condition of this Environmental 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 Environmental Authorisation may result in criminal prosecution or other actions provided for in the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the Regulations.

### Environmental Authorisation Approved By:



**M Tlhape (MPL)**

**Member of the Executive Council**

**North West Department of Rural, Environment and Agricultural Development**

Date: *26/07/2018*

**Cc: Lokisa Environmental Consultants**  
Contact Person: Ms. Delia Lange

Tel No.: (012) 346 7655  
Fax No.: (012) 346 6075

**Madibeng Local Municipality**  
Contact Person: Municipal Manager

Tel No.: (012) 318 9100  
Fax No.: (012) 318 9203

**Department of Water Affairs**  
Contact Person: Mr. Mulalo Machimana

Tel No.: (012) 253 1026  
Fax No.: (012) 253 2761

**WESSA**  
Contact Person: Mr. John Wesson

Tel No.: (011) 462 5663  
Fax No.: 086 614 2338



## ANNEXURE 1: REASONS FOR ENVIRONMENTAL AUTHORISATION

### 1. Background

The Applicant, **Desert Wind Prop 67 (Pty) Ltd** applied for Environmental Authorisation to carry out the following activity:

*The establishment of the Magalies Crossing.*

*The project entails construction of the following:*

- *A guest house with a maximum of 25 sleeping units, and a conference center forming part of the development;*
- *A retail park, restricted to the lower part of the property; and*
- *Tourism related activities- Eco friendly activities aligned to the MPE: Management Framework and Plan*

*On a total development footprint of 6 hectares,*

*on portion 149 of the farm Zandfontein 447 JQ, which falls within the jurisdiction of Madibeng Local Municipality, North West Province*

The applicant appointed **Lokisa Environmental Consulting cc** to undertake Basic Assessment process as required by Regulation 17 of the EIA Regulations of 2010.

### 2. Information considered in making the decision

In reaching my decision, I took, *inter alia*, the following into consideration -

- (a) The ruling by Judge Hendricks on 15 March 2018 (Case no M 645/2016) that I have to re-consider the appeal;
- (b) The information contained in the Basic Assessment Report received on 24 July 2012 compiled by Lokisa Environmental Consulting cc., revised layout plan dated April 2018 together with the comments received from Biodiversity Management and Conservation unit of this Department dated 05 May 2014;
- (c) All mitigation measures and recommendations as contained in the Basic Assessment Report and the Environmental Management Programme included in the report received on 24 July 2012 are acceptable and practical for implementation;
- (d) Comments received from different stakeholders and Interested and Affected Parties (I&AP's) as included in the Basic Assessment Report, including separate comments received from Department of Transport, Roads and Community Safety, Department of Water Affairs, Transnet and Madibeng Local Municipality dated 26 November 2011, 06 June 2012, 07 November 2011 and 23 April 2012 respectively;
- (e) The information contained in the Archaeological Impact Assessment Report dated 13 May 2011 compiled by Heritage Contracts and Archaeological Consulting cc;
- (f) The information contained in the Ecological Report dated March 2011 compiled by Scientific Aquatic Services CC;



- (g) The information contained in the Geotechnical investigation report dated 10 May 2013 and received by the Department on 26 May 2014;
- (h) 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) as amended;
- (i) The findings of a site visit undertaken by the Department officials Ms. Queen Imasiku; Ms. Motshabi Mohlalisi; Mrs. Gasewabone Thebe; Mrs. Portia Krisjan; Mrs. Carene Nieuwoudt; Ms. Siyanda Myendeki with Mr Travis Baikie (attorney), Mr. Cliff Klinkert (Proponent), Mr. S M Molepo, Mr. R. Brits (Rinus Brits Town Planning Solutions) and Ms. Elaine Minnar of Lokisa Environmental Consulting cc on 13 June 2018.

### 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:

- a) Details provided of the qualifications of the EAP indicate that the EAP is competent to carry out the Environmental Impact Assessment (EIA) procedures.
- b) The Basic Assessment Report received on 24 July 2012, additional information received on 28 May 2013 and 08 April 2014, the revised layout plan dated June 2018 as compiled by Rinus Brits Town Planning Solutions and the letter received from Ivan Pouw and Partners dated 10 July 2018.
- c) 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.
- d) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations of 2010 for public involvement. The development was advertised in "Kormorant" dated 3-9 November 2011 as part of the public participation process.
- e) The legal and procedural requirements have been complied with and the information contained in the document is to the satisfaction of this Department.

### 4. Findings

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

- a) The project will contribute towards the tourism growth of the Province in terms of job creation.
- b) The development footprint has been carefully informed by the sensitivities on site and will occur in areas of low-moderate sensitivities ensuring minimal destruction of important flora and fauna.

In view of the above, the Department is satisfied that, subject to compliance with the conditions contained in the Environmental Authorisation, the activity will not conflict with the general objectives of Integrated Environmental Management laid down in Section 23 (2) (a-f) of Chapter 5 of National Environmental Management Act, 1998 (Act No. 107 of 1998) as amended and that any potentially detrimental environmental impacts resulting from the activity can be mitigated to acceptable levels. **The application is accordingly granted.**



## ANNEXURE 2: APPEAL PROCEDURES

### APPEAL PROCEDURE IN TERMS OF CHAPTER 7 OF GN. NO. R. 543 OF 18 JUNE 2010 TO BE FOLLOWED BY THE APPLICANT, AND INTERESTED AND AFFECTED PARTIES UPON RECEIPT OF NOTIFICATION OF AN ENVIRONMENTAL AUTHORISATION

#### Application of this Chapter

58. (1) This Chapter applies to decisions that –
- (a) are subject to an appeal to the Minister in terms of Section 43 (1), (2) or (3) of the Act; and
  - (b) were taken by an organ of state acting under delegation in terms of Section 42 or 42A of the Act in the exercise of a power or duty vested by the Act or these Regulations in a competent authority.

#### Notices of intention to appeal

60. (1) A person affected by a decision and who wishes to appeal against the decision, must submit a notice of intention to appeal with the Minister, within **twenty (20) days** after the date of the decision.
- (2) 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 ten **(10) days** of having submitted the notice contemplated in subregulation (1), with-
- (a) a copy of the notice referred to in subregulation (1); and
  - (b) a notice indicating that the appeal submission will be made available on the day of lodging it with the MEC and where and for what period the appeal submission will be available for inspection by such person or organ of state.
- (3) If the appellant is a person other than an applicant, the appellant must provide the applicant within ten **(10) days** of having lodged the notice contemplated in subregulation (1) with-
- (a) a copy of the notice referred to in subregulation (1); and
  - (b) a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.
- (4) The Minister, as the case may be, in writing, on good cause extend the period within which a notice of intention to appeal must be submitted.

#### Submission of appeals

61. (1) An appeal lodged must be submitted to the appeal authority as indicated in Section 43 of the Act.
- (2) An appeal must be-
- (a) submitted in writing; and
  - (b) accompanied by-
    - (i) a statement setting out the grounds of appeal;
    - (ii) supporting documentation which is referred to in the appeal and which is not in the possession of the Minister;
    - (iii) a statement by the appellant that Regulation 60 (2) or (3) has been complied with together with copies of the notices referred to in that Regulation; and
    - (iv) the prescribed appeal fee, if any.
- (3) The appellant must take into account any guidelines applicable to appeals as contemplated in Section 24J of the Act.



### **Time within which appeals must be lodged**

**64.** (1) An appeal as contemplated in Regulation 61(1), must be submitted within **thirty (30) days** after the lapsing of the **twenty (20) days** contemplated in Regulation 60(1).

(2) The Minister, as the case may be, may, in writing, on good cause extend the period within which an appeal must be submitted.

