*CHECKLIST FOR THE DETERMINATION OF THE APPLICABILITY OF THE NEMA EIA REGULATIONS, 2014 (AS AMENDED)*

NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS.

NOVEMBER 2019

|  |
| --- |
| (For official use only) |
| NEMA Applicability Reference Number: |  |
| Date received by Department: |  |
| Date received by Directorate: |  |
| Date received by Case officer: |  |

**GENERAL PROJECT DESCRIPTION**

(This must include an overview of the project including the Farm name/Portion/Erf number)

|  |
| --- |
|  |

**IMPORTANT INFORMATION TO BE READ PRIOR TO COMPLETING THIS APPLICABILITY CHECKLIST:**

1. **Purpose**

The purpose of this checklist is to provide baseline information for the determination of the applicability of the National Environmental Management Act, 19998 (Act No. 107 of 1998) (“NEMA”), Environmental Impact Assessment (“EIA”) Regulations, 2014 (as amended) to the development proposal.

1. **General**
	1. The EIA Regulations is defined in terms of Chapter 5 of NEMA EIA Regulations.
	2. The required information must be typed within the spaces provided in the form. The sizes of the spaces provided are not necessarily indicative of the amount of information to be provided. The tables may be expanded where necessary.
	3. Unless protected by law all information contained in, and attached to this checklist, will become public information on receipt by the Department.
	4. This checklist is current as of **November 2019**. It is the responsibility of the Proponent/Environmental Assessment Practitioner (EAP) to ascertain whether subsequent versions of the form have been released by the Department. Visit the Department’s website at <http://westerncape.gov.za/eadp> to check for the latest version of this applicability checklist.
	5. This checklist must be **duly dated and originally signed** by the Proponent/EAP and must be submitted to the Department at the details provided below.
	6. **No faxed or e-mailed checklists** **will be accepted**.
	7. The Competent Authority will respond in writing and provide the determination of the applicability of the NEMA EIA Regulations. The Competent Authority’s response will be based on the information provided by you. As such, the quality, correctness and detail of information submitted by you is extremely important and it remains your responsibility to interrogate the specifics of your proposed development in order to report on the potential listed activities in this checklist.
	8. This **checklist is a guide** to the information that must be submitted. Any additional information, pictorial evidence or explanations prompted by the checklist must be submitted along with this checklist in order to ensure that the Competent Authority does not need to request additional information from you. Incomplete checklists will result in a request for additional information.
	9. It is an offence in terms of Section 24F of the NEMA to provide incorrect or misleading information to the Competent Authority.
	10. Section 28(1) of the NEMA must always be taken into account. Section 28 deals with the Duty of Care and the remediation of environmental damage.
	11. Any proposed development must always be designed in a water wise and conscious manner.
2. **Administrative requirements**

This checklist must be used to request the Competent Authority to determine the applicability of the NEMA EIA Regulations.

1. **Circulars, Guidelines and Tools**
	1. The Department’s latest Circulars pertaining to the “One Environmental Management System” and the EIA Regulations, and guidelines must be taken into account when completing this applicability checklist.
	2. The Screening Tool developed by the National Department of Environmental Affairs must be used to generate a screening report. Please use the Screening Tool link <https://screening.environment.go.za/screeningtool> to generate the Screening Report. The Screening Report must be attached to this checklist as Appendix A.
2. **Other Legislative requirements**
	1. If this checklist relates to waste management activities, which will be the primary activity, then this checklist must be submitted for the attention of the Director: Waste Management (tel: 021 483 2756 and fax: 021 483 4425) at the same postal address as the Cape Town Office to determine the applicability of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).

**DEPARTMENTAL DETAILS**

|  |  |
| --- | --- |
| **CAPE TOWN OFFICE: REGION 1 AND REGION 2****(City of Cape Town, West Coast District, Cape Winelands District & Overberg District)** | **GEORGE OFFICE: REGION 3****(Central Karoo District & Garden Route District)** |
| Applicability checklists must be sent to the following details:Western Cape GovernmentDepartment of Environmental Affairs and Development PlanningAttention: Directorate: Development Management (Region 1)Private Bag X 9086Cape Town, 8000 Registry Office1st Floor Utilitas Building1 Dorp Street,Cape Town Queries should be directed to the Directorate: Development Management (Region 1) at: Tel: (021) 483-5829 Fax (021) 483-4372 | Applicability checklists must be sent to the following details:Western Cape GovernmentDepartment of Environmental Affairs and Development PlanningAttention: Directorate: Development Management (Region 3)Private Bag X 6509George, 6530Registry Office4th Floor, York Park Building93 York StreetGeorgeQueries should be directed to the Directorate: Development Management (Region 3) at: Tel: (044) 805-8600 Fax (044) 805 8650 |

**GENERAL REQUIREMENTS**

**1. Locality Map**

A locality map must be attached to this applicability checklist, as Appendix D. The scale of the locality map must be at least 1:50 000. For linear activities of more than 25 kilometres, a smaller scale e.g. 1:250 000 can be used. The scale must be indicated on the map. The map must include the following:

* an accurate indication of the project site position as well as the positions of the alternative sites, if any;
* road names or numbers of all the major roads as well as the roads that provide access to the site(s)
* a north arrow;
* a legend;
* the prevailing wind direction; and
* GPS co-ordinates (Indicate the position of the proposed activity with the latitude and longitude at the centre point for each alternative site. The co-ordinates should be in degrees and decimal minutes. The minutes should be to at least three decimal places. The projection that must be used in all cases is the WGS-84 spheroid in a national or local projection)

**ATTACHMENTS**

**Note:** The appendices must be attached to the applicability checklist as per the list below. Please use a **🗸**(tick) or a **x** (cross) to indicate whether the Appendix is attached to the applicability checklist.

The following appendices must be attached to this applicability checklist:

|  |  |
| --- | --- |
| **APPENDIX** | **🗸(tick)****x (cross)** |
| **Appendix A:** | **Screening Tool Report** |  |
| **Appendix B:** | **Existing approval(s)** |  |
| **Appendix C:** | **Zoning map** |  |
| **Appendix D:** | **Locality map** |  |
| **Appendix E:** | **Adoption of *ad hoc* setback lines (where applicable)** |  |
| **Appendix F:** | **Directives under Section 28 of the NEMA (where applicable)** |  |
| **Appendix G:** | **Directives under Section 30A (where applicable)** |  |
| **Appendix H:** | **Directives under Section 24G of the NEMA (where applicable)** |  |
| **Appendix ….** | **Any other attachments must be included as subsequent appendices.** |  |

**SECTION A: ADMINISTRATIVE DETAILS**

|  |  |  |
| --- | --- | --- |
| Highlight the relevant Departmental Region in which the proposed development falls | CAPE TOWN OFFICE | GEORGE OFFICE |
| REGION 1 (City of Cape Town, West Coast District) | REGION 2(Cape Winelands District & Overberg District) | REGION 3(Central Karoo District & Garden Route District) |
| 1. | **Duplicate this section where there is more than one Proponent.**Name of proponent: |  |
|  | RSA Identity/ Passport Number: |  |
|  | Name of contact person for proponent (if other): |  |
|  | RSA Identity/ Passport Number: |  |
|  | Company/ Trading name/State Department/Organ of State : |  |
|  | Company Registration Number: |  |
|  | Postal address: |  |
|  |  |  | Postal code: |
|  | Telephone: | ( ) | Cell: |
|  | E-mail: |  | Fax: ( ) |
|  | Company of EAP: |  |
| 2. | EAP name: |  |
|  | Postal address: |  |
|  |  |  | Postal code: |
|  | Telephone: | ( ) | Cell: |
|  | E-mail: |  | Fax: ( ) |
|  | Qualifications: |  |
|  | EAPASA registration no: |  |
| 3. | Name of Person in control of the land: |  |
|  | Name of contact person for person in control of the land (if other): |  |
|  | Postal address: |  |
|  |  |  | Postal code: |
|  | Telephone: | ( ) | Cell: |
|  | E-mail: |  | Fax: ( ) |
| 4. | **Duplicate this section where there is more than one Municipal Jurisdiction** Municipality in whose area of jurisdiction the activity will fall: |  |
|  | Contact person:Postal address:TelephoneE-mail: |  |
|  |
|  | Postal code: |
| ( ) | Cell: |
|  | Fax: ( ) |

**SECTION B: DETAILS OF CURRENT ACTIVITIES/EXISTING DEVELOPMENT**

|  |  |  |  |
| --- | --- | --- | --- |
| 1. | Is the development part of a bigger lawfully approved and commenced with development? If yes, provide details of all approvals and attach a copy/ies as Appendix B. | YES | NO |
|  |
| 2.  | Have any activities physically commenced on the site/s? | YES | NO |
| 3.  | List the date of commencement of these activities (dd/mm/yy). |
| 4. | Clearly describe the commencement of these activities. |
|  |
| 5.  | Clearly describe the current state of the site/s/route (This must be supported by recent colour photographs). |
|  |
| 6.  | Describe the existing vegetation/ground cover. |
|  |
| 7.  | Describe the ground slope, drainage and any on-site watercourses/wetlands. |
|  |
| 8.  | Describe the proximity to the high-water mark of the sea or any watercourses. |
|  |
| 9.  | Have any *ad hoc* setback lines in terms of the NEMA EIA Regulations, been adopted by the Competent Authority for the subject site/s/route? (If yes, copies must be attached as Appendix E). | YES | NO |
|  |
| 10. | Have any Directives under Section 28 of the NEMA (as amended) been issued by the Competent Authority for the subject site/s/route? (If yes, copies Must be attached as Appendix F). | YES | NO |
|  |
| 11.  | Have any Directives under Section 30A of the NEMA (as amended) been issued by the Competent Authority for the subject site/s/route? (If yes, copies must be attached as Appendix G). | YES | NO |
|  |
| 12.  | Have any Directives under Section 24G of the NEMA (as amended) been issued by the Competent Authority for the subject site/s/route? (If yes, copies must be attached as Appendix H). |
| Explain: |
|  |
| 13.  | Describe the current land **use** of the proposed site(s) for the proposed development. |
|  |
| 14.  | Describe all the surrounding and abutting land **uses**. |
|  |
| 15.  | Is the current land use lawful? | YES | NO | UNCERTAIN |
| 16. | Explain: |
|  |

**SECTION C: PROPOSED DEVELOPMENT**

|  |  |
| --- | --- |
| 1. | Provide a detailed description of the proposed development and its associated infrastructure. A clear, accurate and comprehensive description will obviate any requests for additional information by the Competent Authority. |
|  |
| 2. | Is the proposed development: |
| 2.1 | a linear activity? | YES | NO |
| 2.2 | an activity directly related to prospecting or exploration of a mineral and petroleum resource or extraction and primary processing of a mineral resource? | YES | NO |
| 2.3 | Is this a strategic infrastructure project (SIP) as contemplated in the Infrastructure Development Act, 2014 (Act No. 23 of 2014)? | YES | NO |
| 3. | Property location of all proposed sites: |  |
| 4. | Farm/Erf name(s) & number(s) (including portion) of all proposed sites: |  |
| 5. | Property size(s) (m2) of all proposed sites: |  |
| 6. | What is the existing lawfully development footprint size in m2? |  |
| 7. | Development footprint size(s) in m2 (i.e. thetotal area of land to be physically cleared for the proposed development (including associated infrastructure). Provide clear details of the required footprint). |  |
| 8. | SG 21 Digit code(s) of all proposed sites: |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 9.  | Coordinates of all proposed sites: Latitude (S)Longitude (E) | o | ‘ | “ |
| o | ‘ | “ |
| 9. | Does the proposed development entail the expansion or changes to an existing lawful facility or the development of a new facility? Explain. |
|  |
| 10.  | Does the proposed development entail the expansion of an existing lawful development footprint or the “like for like replacement” of anything existing? Explain. |
|  |
| 11.  | Specifically list any dangerous goods that are listed in terms of the South African National Standard No. 10234 supplement 2008 1.00 and volumes thereof that will be stored on the site during development or operational activities. |
|  |
| 12. | Does the site/s/route form part of a Critical Biodiversity Area or critically endangered or endangered ecosystem or contain any indigenous vegetation? Explain. |
|  |
| 13.  | Will the proposed development entail the infilling of a watercourse/wetland?  | YES | NO |
| If yes, explain. |
|  |
| 14. | Will the proposed development be located within 32m of a watercourse/wetland? | YES | NO |
| If yes, explain. |
|  |
| 15. | Will the proposed development be located within 100m of the highwater-mark of the sea? | YES | NO |
| If yes, explain. |
|  |

**SECTION D: LIST THE POTENTIAL LISTED ACTIVITIES THAT YOU MAY REGARD TO BE APPLICABLE TO THE PROPOSED DEVELOPMENT**

All activities listed in terms of the NEMA EIA Regulations that may be associated with the proposed project must be provided below.

|  |  |  |
| --- | --- | --- |
| Activity No(s): | Provide the relevant **Basic Assessment Activity(ies)** as set out in **Listing Notice 1**  | Describe the portion of the proposed project to which the applicable listed activity relates. |
|  |  |  |
| Activity No(s): | Provide the relevant **Basic Assessment Activity(ies)** as set out in **Listing Notice 3**  | Describe the portion of the proposed project to which the applicable listed activity relates. |
|  |  |  |
| Activity No(s): | Provide the relevant **Scoping and EIA Activity(ies)** as set out in **Listing Notice 2**  | Describe the portion of the proposed project to which the applicable listed activity relates. |
|  |  |  |
| **Note:** * The Minister responsible for mineral resources is the Competent Authority to deal with all applications where the listed or specified activity is directly related to-

(a) prospecting or exploration of a mineral or petroleum resource; or (b) extraction and primary processing of a mineral or petroleum resource.* Where the National Minister for the Environmental Affairs is the Competent Authority in terms of Section 24C of NEMA, your request for the determination of the applicability of the NEMA EIA Regulations must be submitted to the National Department of Environmental Affairs.
 |

**SECTION E: OTHER LEGISLATION/APPROVALS**

1. **Applicability of Specific Environmental Management Acts (“SEMAs”)**

|  |  |  |  |
| --- | --- | --- | --- |
| 1. | Does the proposed project require an application for a waste management license in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008)?  | YES | NO |
| If yes, explain: |
|  |
| 2.  | Does the proposed project require an application for a Water Use License in terms of the National Water Act, 1998 (Act No. 36 of 1998)? | YES | NO |
| If yes, explain:Note: where a WULA is required, the WULA/EIA Synchronisation process must be followed. |
|  |
| 3.  | Does the proposed project require an application for an Atmospheric Emissions License in terms of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004)? | YES | NO |
| If yes, explain: |
|  |
| 4.  | Does the proposed project require a Heritage permit in terms of Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999): | YES | NO |
| If yes, explain: |
|  |
| 5.  | Does the proposed project require an application for a Coastal Waters Discharge Permit in terms of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008)? | YES | NO |
| If yes, explain: |
|  |

1. **Existing approvals**

|  |  |
| --- | --- |
| 2.1. | Explain if there are any existing approval(s) linked to the property? If so, indicate which approvals were granted (attach approvals as Appendix B). |
|  |
| 2.2. | Explain whether the above approval(s) will be in conflict with the proposed development. |
|  |

**SECTION F: planning context**

**Note:** In instances where more than one zoning is applicable, attach a list or map of the properties that indicates their respective zoning as Appendix C.

|  |  |
| --- | --- |
| 1.  | What is the current zoning of the property? |
|  |
| 2.  | Is a rezoning application required? | YES | NO |
| 3.  | Is any other land use approval(s) (e.g. consent) required? | YES | NO |
| If yes, provide details: |
|  |
| 4.  | Will the proposed development be located in an urban area? | YES | NO |
| 5.  | Is the activity permitted in terms of the property’s existing land use rights? | YES | NO |
| Please explain: |
|  |
| 6.  | Are there any building restrictions in terms of the applicable Municipal By-laws? | YES | NO |
| Please explain: |
|  |
| 7. | Will the activity be aligned with the following: |
| 7.1. | The Provincial Spatial Development Framework (PSDF)? | YES | NO |
| Please explain: |
|  |
| 7.2.  | The Spatial Development Framework of the Local Municipality? | YES | NO |
| Please explain: |
|  |
| 7.3.  | The urban edge as delineated in the Municipality’s Spatial Development Framework | YES | NO |
| Please explain: |
|  |
| 7.4.  | An Environmental Management Framework (EMF)? | YES | NO |
| Please explain: |
|  |
| 7.5.  | Any other Policies, Plans, Guidelines, Spatial Tools, Development Planning Frameworks and instruments applicable to the development. | YES | NO |
| Please explain: |
|  |
| 7.6. | Are any Amendments of the above-mentioned required? | YES | NO |
| Please explain: |
|  |
| 8. | Will the proposed development lie within coastal public property, the coastal protection zone, or coastal access land as defined in terms of the NEW: ICMA, 2008? | YES | NO |
| Please explain: |
|  |

**SECTION G: GENERAL INFORMATION**

1. Solid waste management

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| (i)  | Will the activity produce any solid waste (including rubble/sewage) during the development or operational phases? | YES | NO | UNCERTAINN  |
| (ii)  | If YES or UNCERTAIN, explain. |
|  |
| (iii)  | If YES, will it feed into a municipal waste stream? | YES | NO | UNCERTAIN |
| (iv)  | If NO to (iii) above, describe how each type of waste will be treated / disposed of. |
|  |

2. Hazardous Waste Management

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| (i)  | Will the activity produce any hazardous waste? | YES | NO | UNCERTAIN |
| If YES or UNCERTAIN, explain. |
|  |
| (ii) | Indicate whether or not the hazardous waste will be treated and/or disposed of into a municipal system? | YES | NO | UNCERTAIN |
| (iii) | If NO, describe how it will be treated and/or disposed of: |
|  |

3. Effluent Waste Management

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| (i)  | Will the activity produce any effluent? | YES | NO | UNCERTAIN |
| (ii)  | If YES or UNCERTAIN, explain. |
| (iii) | Indicate whether or not the effluent will be treated and/or disposed of into a municipal system? | YES | NO | UNCERTAIN |
| (iv) | If NO, describe how it will be treated and/or disposed of: |
|  |

4. Emissions into the atmosphere

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| (i)  | Will the activity produce emissions that will be vented into the atmosphere? | YES | NO | UNCERTAIN |
| (ii)  | If YES or UNCERTAIN, explain. Describe the emissions in terms of type and concentration and how it will be treated/mitigated prior to venting: |
|  |

**2. Water Requirements**

Please indicate the source(s) of water for the proposed development by highlighting the appropriate box(es)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Municipal | Water board | Groundwater | River, Stream, Dam or Lake | Other | The activity will not use water |
| 2.1. | Please explain your selection above. |
|  |
| 2.2. | The volume of water required per month is: | m3 |

**3. Power/Electricity Requirements**

|  |  |
| --- | --- |
| 3.1. | Please indicate the source of power supply eg. Municipality / Eskom / Renewable energy source/ Self |
|  |
| 3.2. | Explain clearly how power will be generated/transmitted/distributed? |
|  |

**SECTION H: DECLARATIONS**

# DECLARATION OF The Proponent

**Note:** Duplicate this section where there is more than one proponent.

I …………………………..…………ID number…………………………………, in my personal capacity or duly authorised theretohereby declare/affirm that:

* the information provided or to be provided as part of this checklist, is true and correct;
* I am fully aware of my responsibilities in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (“NEMA”), the Environmental Impact Assessment Regulations, as defined in Chapter 5 of NEMA (as amended) and any relevant Specific Environmental Management Acts and that failure to comply with these requirements may constitute an offence in terms of relevant environmental legislation;
* I am aware that it is an offence in terms of Section 24F of the NEMA should I commence with a listed activity prior to obtaining an Environmental Authorisation;
* I am aware of my general duty of care in terms of Section 28 of the NEMA; and
* I will be responsible for the costs incurred in complying with the NEMA EIA Regulations and other environmental legislation including but not limited to –
	+ costs incurred for the appointment of an EAP or any person legitimately contracted by the EAP; and
	+ costs in respect of specialists (if any).

Signature of the Proponent: Date:

Name of company (if applicable):

# DECLARATION OF THE environmental assessment practitioner (“EAP”)

I ………………………………………… EAPASA registration no:…………………………………., as the appointed EAP hereby declare/affirm that:

* the information provided or to be provided as part of this checklist, is true and correct;
* I have disclosed/will disclose, to the Proponent, the specialist (if any) and the Competent Authority, all material information that have or may have the potential to influence the determination of the applicability of the NEMA EIA Regulations with respect to the proposed development;
* I have ensured/will ensure the inclusion of inputs and recommendations from any specialists in respect of the checklist, where relevant;
* I am aware that it is an offence in terms of Section 24F of the NEMA should the proponent commence with a listed activity prior to obtaining an Environmental Authorisation; and
* I am aware of my general duty of care in terms of Section 28 of the NEMA.

Signature of the EAP: Date:

Name of company (if applicable):