



## **DEA&DP CIRCULAR No 0023/2020**

### **ALL ORGANISATIONS AND PRIVATE ENTITIES INVOLVED IN ENVIRONMENTAL IMPACT ASSESSMENT ("EIA"), ATMOSPHERIC EMISSION LICENCE ("AEL"), WASTE MANAGEMENT LICENCE ("WML") AND NEMA SECTION 24G PROCESSES IN THE WESTERN CAPE**

#### **PROTOCOL FOR THE ADMINISTRATION OF EIA, AEL, WML AND SECTION 24G APPLICATIONS DURING THE FESTIVE PERIOD 2020/21**

1. The Department hereby informs all stakeholders of the protocol for the administration of Environmental Impact Assessment ("EIA"), Atmospheric Emission Licence ("AEL"), Waste Management Licence ("WML") and National Environmental Management Act (Act No. 107 of 1998) ("NEMA") Section 24G applications over the festive period 2020/21.
2. Regulation 3(2) of the Environmental Impact Assessment ("EIA") Regulations, 2014, as well as regulation 1(2) of the National Appeal Regulations, 2014, promulgated in terms of the NEMA state that, *'the period of 15 December to 5 January must be excluded in/from the reckoning of days'*.
3. Regulation 3(3) of the EIA Regulations, 2014, further states that, *"Unless justified by exceptional circumstances, as agreed to by the competent authority, the proponent and applicant must refrain from conducting any public participation process during the period of 15 December to 5 January"*.
4. Therefore, after due consideration of the aforementioned provisions and to ensure a fair appeal and public participation process, the Department hereby informs all stakeholders of the following protocol over the 2020/21 festive holiday period:

## **4.1. Decisions**

- 4.1.1. The Department will not issue any environmental decisions (i.e. Records of Decision, Environmental Authorisation, AEL or WML) in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989) ("ECA"), the NEMA EIA Regulations (promulgated in 2006, 2010 and 2014), the Section 21 listed activities (promulgated in 2010 and 2013) of the National Environmental Management: Air Quality Act, (Act No. 39 of 2004, as amended) (NEM: AQA), the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) and section 24G of the NEMA decision between 15 December 2020 and 5 January 2021.
- 4.1.2. The Department will make every effort to try and issue decisions that are due in December 2020 prior to 15 December 2020. In respect of AELs, all efforts will likewise be made to, in terms of the 60-day timeframe prescribed by section 40(3) of the NEM: AQA, try and issue AEL decisions that are due in December 2020 prior to 15 December 2020.
- 4.1.3. The Department will resume with the issuing of environmental decisions on Wednesday, 6 January 2020.

## **4.2. Administration of applications**

- 4.2.1. Considering the exclusion of the period 15 December to 5 January in/from reckoning of days in respect of legislated timeframes, it means that any timeframe affected by this period is extended/interrupted. As such, no application will lapse if the end date of a prescribed timeframe falls within this period, and as such there is no need for submissions in respect of such applications.
- 4.2.2. In light of the above, the Department recommends that applicants and/or their appointed environmental assessment practitioners ("EAPs") refrain from submitting Application Forms and Reports (that is, Amendment, Basic Assessment, Scoping and Environmental Impact Assessment Reports) during the period 15 December 2020 to 5 January 2021.
- 4.2.3. The Department recommends that the submission of such documents should only resume from Monday, 11 January 2021.

### **4.3. COVID-19 Disaster Declaration**

- 4.3.1. On 15 March 2020, a National State of Disaster was declared in terms of the Disaster Management Act, 2002 (Act No. 57 of 2002) ("DMA") and as a result the National Minister of Forestry, Fisheries and the Environment issued Directions in respect of the undertaking and administration of Environmental Impact Assessment ("EIA") and its related processes during the Lockdown, which have since been amended in respect of the different Alert Levels.
- 4.3.2. The latest Directions issued on 09 September 2020 by the Minister of Forestry, Fisheries and the Environment in respect of the undertaking and administration of EIA and related processes came into effect during Lockdown Alert Level 2 and remains in effect for the remainder of the period of the National State of Disaster.
- 4.3.3. The aforementioned Directions must be read in conjunction with Circular DEA&DP No. 0024/2020, that the Department issued on 30 September 2020.
- 4.3.4. Circular DEA&DP No. 0024/2020 provides guidance on the procedures the Department and Ministry has put in place for the submission of applications, documentation, reports and comments to this Department and the Ministry, with specific reference to paragraph 6.1 to 6.13.
  - 4.3.4.1. For example, Departmental officials are still predominantly working from home and the Department therefore require clients to continue to submit applications and/or reports electronically, as per the aforementioned Circular.

### **4.4. Public Participation Process**

- 4.4.1. To ensure compliance with Regulation 3(2), as well as Regulation 3(3) of the EIA Regulations, 2014, and to facilitate a transparent public participation process, the Department reminds applicants and/or EAPs not to conduct public participation processes over the festive period, i.e. during the period 15 December 2020 to 5 January 2021.

4.4.2. Unless justified by exceptional circumstances, as agreed to by the Department as the relevant competent authority, the proponent and applicant must refrain from conducting any public participation process during the period of 15 December to 5 January. If the applicant and/or EAP wishes to conduct public participation processes during this period, a motivation must be submitted to the Department and the Departments' approval obtained prior to conducting the public participation process. For example, an exceptional circumstance may include the fact that the proposed activity is located in a recognised holiday destination, such as a coastal town.

#### 4.5. Enquiries

Any enquiries with regard to the above protocol may be directed to:

<p><b>Mr Zaahir Toefy</b>          Director: Development Management (Region 1 and 2)          Email: <a href="mailto:zaahir.toefy@westerncape.gov.za">zaahir.toefy@westerncape.gov.za</a></p>	<p><b>Region 1:</b>          City of Cape Town and West Coast District Municipal area.  <b>Region 2:</b>          Cape Winelands District Municipal area and Overberg District Municipal area</p>
<p><b>Mr Gavin Benjamin*</b>          Director: Development Management (Region 3)          Tel: (044) 805 8600          Fax: (044) 805 8650          Email: <a href="mailto:gavin.benjamin@westerncape.gov.za">gavin.benjamin@westerncape.gov.za</a>          or <a href="mailto:DEADPEIAAdmin.George@westerncape.gov.za">DEADPEIAAdmin.George@westerncape.gov.za</a></p> <p>* Prior to 17 December 2020, the Acting Director, Danie Swanepoel, must be contacted (<a href="mailto:danie.swanepoel@westerncape.gov.za">danie.swanepoel@westerncape.gov.za</a>)</p>	<p><b>Region 3:</b>          Garden Route District Municipal area and Central Karoo District Municipal area.</p>
<p><b>Mr Eddie Hanekom</b>          Director: Waste Management          Email: <a href="mailto:eddie.hanekom@westerncape.gov.za">eddie.hanekom@westerncape.gov.za</a></p>	<p><b>Western Cape</b></p>
<p><b>Dr Joy Leaner (PhD)</b>          Director: Air Quality Management          Email: <a href="mailto:joy.leaner@westerncape.gov.za">joy.leaner@westerncape.gov.za</a></p>	<p><b>Western Cape</b></p>
<p><b>Adv Charmaine Maré / Ms Zaidah Toefy (NEMA Section 24G Applications)</b>          Director: Environmental Governance / Head of Section 24G Unit          Email: <a href="mailto:charmaine.mare@westerncape.gov.za">charmaine.mare@westerncape.gov.za</a> / <a href="mailto:zaidah.toefy@westerncape.gov.za">zaidah.toefy@westerncape.gov.za</a></p>	<p><b>Western Cape</b></p>

#### **4.6. Appeals**

Please note that the content of this Circular does not affect the administration and finalisation of environmental appeal decisions in accordance with the National Appeal Regulations, 2014, by the Minister of Local Government, Environmental Affairs and Development Planning.

We thank you for your cooperation in this regard and wish you a well-earned holiday break with your families and a blessed Festive Season of peace, joy and prosperity .

Yours sincerely

A handwritten signature in black ink, appearing to read 'Piet van Zyl', with a horizontal line underneath the name.

**PIET VAN ZYL  
HEAD OF DEPARTMENT  
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

**DATE:** 8 December 2020