



## **CIRCULAR: DEA&DP NO. 0024/2020**

### **TO: ALL PUBLIC AND PRIVATE SECTOR STAKEHOLDERS IN ENVIRONMENTAL AUTHORISATION AND PERMITTING PROCESSES**

### **EIA AND RELATED LICENSING SERVICES AND SUPPORTING PROFESSIONAL SERVICES DURING COVID-19 LOCKDOWN ALERT LEVEL 1**

1. On 15 March 2020 a National State of Disaster was declared in terms of COVID-19<sup>1</sup> which has since been extended to 15 October 2020<sup>2</sup>.
2. Regulations, as well as numerous Directions, have since the declaration of the National State of Disaster been issued in terms of the Disaster Management Act, 2002 (Act No. 57 of 2002) ("DMA") regarding COVID-19 related measures.<sup>3</sup> On 18 September 2020 amendments to the Lockdown Regulations were published in terms of the DMA, which brought into effect Alert Level 1, with effect from 21 September 2020<sup>4</sup>.
3. On 31 March 2020 Directions were issued by the Minister of Forestry, Fisheries and the Environment in respect of the undertaking and administration of Environmental Impact Assessment ("EIA") and related processes during the Lockdown.<sup>5</sup>
4. On 5 June 2020 new Directions were issued by the Minister of Forestry, Fisheries and the Environment in respect of the undertaking and administration of EIA and related processes during Lockdown Alert Level 3.<sup>6</sup> The Directions of 5 June 2020 repealed the Directions of 31 March 2020. The Directions of 5 June 2020, however, made it clear that in terms of the "*Commencement and duration*", these Directions came "*into effect*

<sup>1</sup> Government Gazette No. 43096 of 15 March 2020 is available at:

[http://www.gpwonline.co.za/Gazettes/Gazettes/43096\\_15-3\\_CoOperativeGovTradAff.pdf](http://www.gpwonline.co.za/Gazettes/Gazettes/43096_15-3_CoOperativeGovTradAff.pdf)

<sup>2</sup> Government Notice No. 995 in Government Gazette No. 43713 of 14 September 2020 is available at:

[https://www.gov.za/sites/default/files/gcis\\_document/202009/43713gon995.pdf](https://www.gov.za/sites/default/files/gcis_document/202009/43713gon995.pdf)

<sup>3</sup> The Regulations, Directions and Guidelines published by National Government in respect of COVID-19 are available at:

<https://www.gov.za/coronavirus/guidelines>

<sup>4</sup> Government Notice No. 999 in Government Gazette No. 43725 on 18 September 2020 is available at:

[https://www.gov.za/sites/default/files/gcis\\_document/202009/43725gon999.pdf](https://www.gov.za/sites/default/files/gcis_document/202009/43725gon999.pdf)

<sup>5</sup> Government Notice No. R.439 in Government Gazette No. 43190 of 31 March 2020 is available at:

<https://www.gov.za/documents/disaster-management-act-environment-directions-measures-address-prevent-and-combat-spread>

<sup>6</sup> Government Notice No. 650 in Government Gazette No. 43412 of 5 June 2020 is available at:

[https://www.gov.za/sites/default/files/gcis\\_document/202006/43411gon650s.pdf](https://www.gov.za/sites/default/files/gcis_document/202006/43411gon650s.pdf)

on the date of publication in the Government Gazette, and will apply during Alert Level 3.” In other words, these Directions came into effect on 5 June 2020, but the duration of these Directions came to an end at midnight on 17 August 2020 when Alert Level 3 came to an end.

5. On 9 September 2020 new Directions were issued by the Minister of Forestry, Fisheries and the Environment in respect of the undertaking and administration of EIA and related processes during Lockdown Alert Level 2 and lower<sup>7</sup>. The Directions of 9 September 2020 apply from 9 September 2020 for the remainder of the period of the National State of Disaster. The Directions of 9 September 2020 provides, amongst other things, that:

**“4. Extension of timeframes**

*For any decisions or processes affected by the timeframes contemplated in paragraphs 5.1(a) and 5.2(a), (b) and (d) of the repealed Directions, for which processes, services or actions were suspended, extended or deemed extended from 27 March 2020, including the period of validity of decisions or dates on which environmental audit reports were due for submission, and which processes, services or actions –*

- (a) *were not resumed in terms of the Permitting Directions, but which are resumed under Alert Level 2 or lower Alert Level, the appropriate actions and steps must be taken, in terms of the applicable legislation, in order to avoid the lapsing or expiry of such decisions or processes –*
- (i) *within 30 days of the publication of these Directions in the Gazette; or*
  - (ii) *where outstanding actions or steps cannot be concluded within a period of 30 days of publication of these Directions in the Gazette, within such period that is deemed appropriate and reasonable to conclude such outstanding actions or steps, which period must be agreed to with, and confirmed by, the relevant authority in writing within 30 days of publication of this Notice in the Gazette, and which agreed period must be communicated by the applicant, holder of the decision, appellant or any other responsible party without undue delay, to all parties affected by such process or decision;*
- (b) *were resumed under the Permitting Directions during Alert Level 3, such processes, services or actions must continue subject to adherence to any applicable extended timeframes as contemplated in paragraphs 4.2 and 4.3 of the Permitting Directions or agreements reached regarding a specific decision or process between the relevant parties as contemplated in the Permitting Directions.”*

---

<sup>7</sup> Government Notice No. 970 in Government Gazette No. 43696 on 9 September 2020 is available at: [https://www.gov.za/sites/default/files/gcis\\_document/202009/43696gon970.pdf](https://www.gov.za/sites/default/files/gcis_document/202009/43696gon970.pdf)

6. The Directions of 9 September 2020 also provides that “

*3.2 Where any of the licensing authorities or competent authorities affected by these Directions has publicly indicated that a different arrangement applies in respect of paragraph 4, such an arrangement will prevail over any arrangement indicated in these Directions.*

4 This Circular is issued in order to:

- withdraw **Circular DEA&DP No. 0017/2020** issued on 18 August 2020 and to confirm that the arrangements set out in Paragraph 4 of the Directions of 9 September 2020 apply to all matters in respect of processes in terms of which Minister Anton Bredell (the Western Cape Provincial Minister of Local Government, Environmental Affairs and Development Planning) or officials of the Western Cape Department of Environmental Affairs and Development Planning (DEA&DP) are the relevant Competent/Licensing Authority; and
- communicate the determinations made and arrangements in respect of the format in which to submit applications, documents, reports and comments to DEA&DP and related matters in terms of Alert Level 1 in respect of:
  - the National Environmental Management Act, 1998 (Act No. 107 of 1998) (“NEMA”)<sup>8</sup>;
  - the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) (“NEMWA”);
  - the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) (“NEMAQA”)<sup>9</sup>;
  - the Environmental Impact Assessment Regulations, 2014, the National Exemption Regulations (2014);
  - the National Appeal Regulations (2014); and
  - related processes in terms of which Minister Anton Bredell (the Western Cape Provincial Minister of Local Government, Environmental Affairs and Development Planning) or officials of the Western Cape Department of Environmental Affairs and Development Planning (“DEA&DP”) are the relevant Competent/Licensing Authority.

5 This Circular must be read together with the applicable legislation, including the Regulations and Directions issued in terms of the DMA and in particular the Directions of 9 September 2020, and is not intended to be a substitute for the provisions of the legislation or Directions in any way. If there is a conflict between the content of this Circular and a provision in the legislation or Directions, then the provisions in the

---

<sup>8</sup> Including in terms of Section 24G of NEMA.

<sup>9</sup> Including in terms of Section 22A of NEMAQA.

legislation or Directions prevail. If there is any uncertainty about the requirements or arrangements, the relevant Competent/Licensing Authority in DEA&DP (as listed in Paragraph 6.1 in the table below) should be approached for guidance and/or confirmation.

- 6 On condition that all the relevant COVID-19 Regulations and Directions that apply to Alert Level 1 are complied with, including the relevant COVID-19 Health and Safety measures and protocols, the following determinations and arrangements apply in respect of EIA and related processes for which Minister Anton Bredell or DEA&DP officials are the relevant authority:

6.1	<p><b>Queries</b></p> <p><b>EIA</b></p> <p><b>Waste Management</b></p> <p><b>Air Quality Management</b></p> <p><b>Appeals</b></p> <p><b>24G Rectification</b></p>	<p>General queries must be submitted via email to the relevant official of DEA&amp;DP as indicated below:</p> <ul style="list-style-type: none"> <li>• <b>Zaahir Toefy</b>  <b>Director: Development Management</b>            Email: <a href="mailto:zaahir.toefy@westerncape.gov.za">zaahir.toefy@westerncape.gov.za</a>            Region 1: City of Cape Town and West Coast District Municipal area.            Region 2: Cape Winelands District Municipal area and Overberg District Municipal area</li> <li>• <b>Gavin Benjamin</b>  <b>Director: Development Management</b>            Email: <a href="mailto:gavin.benjamin@westerncape.gov.za">gavin.benjamin@westerncape.gov.za</a> with a copy to <a href="mailto:DEADPEIAAdmin.George@westerncape.gov.za">DEADPEIAAdmin.George@westerncape.gov.za</a>            Region 3: Garden Route District Municipal area and Central Karoo District Municipal area</li> <li>• <b>Eddie Hanekom</b>  <b>Director: Waste Management</b>            Email: <a href="mailto:eddie.hanekom@westerncape.gov.za">eddie.hanekom@westerncape.gov.za</a></li> <li>• <b>Dr Joy Leaner</b>  <b>Director: Air Quality Management</b>            Email: <a href="mailto:joy.leaner@westerncape.gov.za">joy.leaner@westerncape.gov.za</a></li> <li>• <b>Marius Venter</b>  <b>Environmental and Planning Appeals Co-ordinator</b>            Email: <a href="mailto:marius.venter@westerncape.gov.za">marius.venter@westerncape.gov.za</a></li> <li>• <b>Adv Charmaine Maré / Ms Zaidah Toefy (Section 24G)</b>  <b>Director: Environmental Governance</b>            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></li> </ul>
6.2	<b>Timeframes</b>	<p>As set out in Paragraph 4 of the Directions of 9 September 2020:</p> <ul style="list-style-type: none"> <li>• For any decisions or processes affected by the timeframes contemplated in Paragraphs 5.1 (a) and 5.2(a), (b) and (d) of the Directions of 31 March 2020, for which processes, services or actions were suspended, extended or deemed extended from</li> </ul>

		<p>27 March 2020, including the period of validity of decisions or dates on which environmental audit reports were due for submission, and which processes, services or actions –</p> <ul style="list-style-type: none"> <li>○ were not resumed in terms of the Directions of 5 June 2020, but which were resumed under Alert Level 2 or under Alert Level 1, the appropriate actions and steps must be taken, in terms of the applicable legislation, in order to avoid the lapsing or expiry of such decisions or processes – <ul style="list-style-type: none"> <li>▪ within 30 days of the publication of these Directions in the Gazette; or</li> <li>▪ where outstanding actions or steps cannot be concluded within a period of 30 days of publication of these Directions in the Gazette, within such period that is deemed appropriate and reasonable to conclude such outstanding actions or steps, which period must be agreed to with, and confirmed by, the relevant authority in writing within 30 days of publication of this Notice in the Gazette, and which agreed period must be communicated by the applicant, holder of the decision, appellant or any other responsible party without undue delay, to all parties affected by such process or decision;</li> </ul> </li> <li>○ were resumed under the Directions of 5 June 2020 during Alert Level 3, such processes, services or actions must continue subject to adherence to any applicable extended timeframes as contemplated in Paragraphs 4.2 and 4.3 of the Directions of 5 June 2020 or agreements reached regarding a specific decision or process between the relevant parties as contemplated in the Permitting Directions.</li> </ul> <p>The specifics of each case must as soon as possible be communicated to the relevant authority to obtain confirmation of the timeframes that apply in terms of the specific case.</p> <p>If additional time is required in respect of an application for Environmental Authorisation in terms of the EIA Regulations, 2014, then, in the event where the scope of work must be expanded based on the outcome of an assessment done in accordance with the EIA Regulations, 2014, which outcome could not be anticipated prior to the undertaking of the assessment, or in the event where exceptional circumstances can be demonstrated, a request may in terms of <b>Regulation 3(7)</b> be submitted to the relevant authority, and the relevant authority may, prior to the lapsing of the relevant prescribed timeframe, in writing, extend the relevant prescribed timeframe and agree with the applicant on the length of such extension.</p>
6.3	<b>Public participation processes</b>	<p>Proponents/applicants, EAPs, specialists and professionals, where relevant, must:</p> <ul style="list-style-type: none"> <li>• ensure that all reasonable measures are taken to identify potential I&amp;APs for purposes of conducting public participation on the application; and</li> </ul>

		<ul style="list-style-type: none"> <li>• ensure that, as far as is reasonably possible, taking into account the specific aspects of the application- <ul style="list-style-type: none"> <li>○ information containing all relevant facts in respect of the application or proposed application is made available to potential I&amp;APs; and</li> <li>○ participation by potential or registered I&amp;APs has been facilitated in such a manner that all potential or registered I&amp;APs are provided with a reasonable opportunity to comment on the application or proposed application.</li> </ul> </li> </ul> <p>In ensuring the above, applicants and EAPs, in addition to the methods contained in Regulation 41(1) of the EIA Regulations, 2014/Regulation 4(5) of the National Exemption Regulations, 2014, or as part of reasonable alternative methods proposed in terms of Regulation 41(2)(e) of the EIA Regulations, 2014/Regulation 4(5)(e) of the National Exemption Regulations, 2014, may make use of the following non-exhaustive list of methods: emails, websites, Zero Data Portals, Cloud Based Services, or similar platforms, direct telephone calls virtual meetings, newspaper notices, radio advertisements, community representatives, distribution of notices at places that are accessible to potential I&amp;APs.</p> <p>At all times it must be ensured that reasonable opportunity is provided for public participation. While the COVID-19 Lockdown is a unique circumstance, the specific circumstances of each case must be considered to determine what will be reasonable. If in the circumstances of a particular case additional measures to give notice to potential interested and affected parties and to allow for commenting on reports are available, such additional measures should be considered.</p> <p>To ensure that reasonable notice is given to potential and registered interested and affected parties ("I&amp;APs"), DEA&amp;DP should be approached with a proposed <b>Public Participation Plan</b> setting out all the public participation steps, including the additional measures, proposed.</p> <p>Proponents/ applicants or EAPs must, when submitting documents to the competent authority for decision-making purposes, submit a declaration indicating that:</p> <ul style="list-style-type: none"> <li>• all reasonable measures have been taken to identify potential I&amp;APs for purposes of conducting public participation on the application;</li> <li>• as far as is reasonably possible and taking into account the specific aspects of the application, <ul style="list-style-type: none"> <li>○ information containing all relevant facts in respect of the application or proposed application has been made available to potential I&amp;APs; and</li> <li>○ participation by potential or registered I&amp;APs has been facilitated in such a manner that all potential or registered I&amp;APs have been provided with a reasonable opportunity to comment on the application or proposed application; and</li> </ul> </li> </ul>
--	--	--

		<ul style="list-style-type: none"> <li>if applicable, the Public Participation Plan, as agreed with the relevant authority, has been adhered to and indicate any deviations from such agreed plan where relevant; with a copy of the agreed Public Participation Plan to be submitted as an Annexure to the documentation submitted to the relevant authority.</li> </ul>
6.4	<b>Making copies of reports available for comment</b>	<p>Electronic versions of reports must be made accessible to all registered I&amp;APs for comment through any of the following non-exhaustive list of methods: emails, websites, Zero Data Portals, community or traditional authorities, and Cloud Based Services.</p> <p>Pre-application, Draft and Revised Reports must be made available to Registered I&amp;APs (and DEA&amp;DP via the relevant official indicated in Paragraph 6.6 below, or, if the case has already been allocated, to the relevant case officer) for comment in electronic format (emails with pdf versions of report attached to an email or, if too large to attach to an email, to be made available via an electronic link accessible by the Registered I&amp;APs and DEA&amp;DP).</p> <p>DEA&amp;DP may, however, still require that a hard copy/copies of a report and original documents also be submitted to DEA&amp;DP by a certain date.</p>
6.5	<b>Public Meetings and Open Days</b>	<p>With large gatherings still prohibited during Lockdown Alert Level 1, in-person public meetings and open days may not be held, but an EAP/specialist could in the Public Participation Plan that should be submitted to DEA&amp;DP propose that virtual public meetings and virtual open days be held.</p>
6.6	<b>Meetings with the relevant authority</b>	<p>Unless part of a site visit, meetings, if required, will be conducted virtually via Microsoft Teams. Meeting requests must be submitted via email to the relevant DEA&amp;DP official listed below, or if the case has already been assigned, via email to the relevant case officer.</p> <ul style="list-style-type: none"> <li><b>Mr Zaahir Toefy</b>  <b>Director: Development Management</b>  Email: <a href="mailto:zaahir.toefy@westerncape.gov.za">zaahir.toefy@westerncape.gov.za</a>  Region 1: City of Cape Town and West Coast District Municipal area.  Region 2: Cape Winelands District Municipal area and Overberg District Municipal area</li> <li><b>Mr Gavin Benjamin</b>  <b>Director: Development Management</b>  Email: <a href="mailto:gavin.benjamin@westerncape.gov.za">gavin.benjamin@westerncape.gov.za</a> with a copy to <a href="mailto:DEADPEIAAdmin.George@westerncape.gov.za">DEADPEIAAdmin.George@westerncape.gov.za</a>  Region 3: Garden Route District Municipal area and Central Karoo District Municipal area</li> <li><b>Mr Eddie Hanekom</b>  <b>Director: Waste Management</b>  Email: <a href="mailto:eddie.hanekom@westerncape.gov.za">eddie.hanekom@westerncape.gov.za</a></li> </ul>

		<ul style="list-style-type: none"> <li>• <b>Dr Joy Leaner</b> <b>Director: Air Quality Management</b> Email: <a href="mailto:joy.leaner@westerncape.gov.za">joy.leaner@westerncape.gov.za</a></li> <li>• <b>Adv Charmaine Maré / Ms Zaidah Toefy (Section 24G)</b> <b>Director: Environmental Governance</b> 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></li> </ul>
6.7	<b>Site visits</b>	<p>Site visits may be undertaken, but the number of people present at site visits must be restricted as far as possible.</p> <p>Requests for the relevant authority to attend a site visit, if necessary, must be submitted via email to the relevant DEA&amp;DP official listed in 6.6 above, or if the case has already been assigned, via email to the relevant case officer.</p>
6.8	<b>Meetings without the relevant authority between the Proponent, Applicant/ EAP, Specialist(s), other Professionals, and others.</b>	<p>Unless part of a site visit, virtual meetings should be arranged.</p>
6.9	<b>Submission of applications, appeals and requests.</b>	<p>All applications, appeals and requests, which must include the required signatures, must be submitted via email to the relevant official listed in 6.1 above, or, if the case has already been assigned, via email to the relevant case officer, with attached pdf versions of letters and reports or, if too large to attach to an email, to be made available via an electronic link provided in the email that is accessible by the relevant authority.</p> <p>The relevant authority may require that a hard copy/copies and original documents also be submitted by a certain date.</p>
6.10	<b>Submission of reports and other documentation and correspondence</b>	<p>All reports and other documentation and correspondence, which must include the required signatures, must be submitted via email to the relevant official listed in Paragraph 6.1 above, or, if the case has already been assigned, via email to the relevant case officer, with attached pdf versions of letters and reports or, if too large to attach to an email, to be made available via an electronic link provided in the email that is accessible by the relevant authority.</p> <p>The relevant authority may require that a hard copy/copies and original documents also be submitted by a certain date.</p>

6.11	<b>Issuing of comments by the relevant authority</b>	All comments will be issued via e-mail, with signatures as required.
6.12	<b>Issuing of decisions by the relevant authority</b>	All decisions in terms of applications, appeals and requests will be issued via e-mail, with signatures, to the applicant/applicant/requester, copied to the Environmental Assessment Practitioner.
6.13	<b>Notify registered I&amp;APs of the relevant authority's decision and provide access to the decision.</b>	Registered I&APs must be notified of the decision on an application as well as be provided with access to the decision. Electronic versions of decisions may be made accessible through any of the following non-exhaustive list of methods: emails, websites, Zero Data Portals, community or traditional authorities, Cloud Based Services, provided that all registered I&APs have access to the decision.  The applicant or EAP must provide proof that all registered I&APs have been notified and provided access to the decision.

While even more restrictions are lifted in terms of Alert Level 1, we must continue to implement the necessary protocols to limit the spread of the COVID-19.

We again want to reassure all our stakeholders that DEA&DP has a dual objective at this time: On the one hand, to comply with various prescripts of the COVID-19 State of Disaster Regulations and Directions that may still apply, in terms of public health and safety, but on the other hand, to facilitate and enable the processes that will also start to put our Province on the slow and long road to economic recovery and sustainability.

We therefore look forward to continuing to work with you in this regard and thank you for your continued cooperation. If you have any questions in this regard, please revert to the colleagues noted in Paragraph 6.1 above.

Yours sincerely



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

**DATE:** 30 September 2020