



DEPARTMENT of
ENVIRONMENTAL AFFAIRS
& DEVELOPMENT PLANNING
Provincial Government of the Western Cape

EIA GUIDELINE AND INFORMATION DOCUMENT SERIES

GUIDELINE ON APPEALS

AUGUST 2010

EIA GUIDELINE AND INFORMATION DOCUMENT SERIES

GUIDELINE ON APPEALS

Issued by: Western Cape Department of Environmental Affairs & Development Planning (DEA&DP)
Private Bag X9086, Cape Town, 8000, South Africa.

EIA Guideline & Information Document Series: This guideline forms part of the DEA&DP's *Environmental Impact Assessment Guideline and Information Document Series*. The latest versions of the documents available in this series consist of the following –

- *Guideline on Transitional Arrangements (August 2010)*
- *Guideline on Alternatives (August 2010)*
- *Guideline on Public Participation (August 2010)*
- *Guideline on Exemption Applications (August 2010)*
- *Guideline on Appeals (August 2010)*
- *Guideline on Need and Desirability (August 2010)*
- *Information Document on the Interpretation of the Listed Activities (August 2010)*
- *Information Document on Generic Terms of Reference for EAPs and Project Schedules (August 2010)*

Please note: The above versions are all in draft form. The final versions of the guidelines and information document will be formally published later this year.

The EIA Guideline & Information Document Series, the relevant legislation and DEA&DP's applications forms are available on the DEA&DP website: <http://www.capegateway.gov.za/eadp>

Please note: This guideline must be read together with the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), the EIA Regulations, the relevant Specific Environmental Management Act(s) ("SEMA") (e.g. Environment Conservation Act, 1989 – Act No. 73 of 1989, National Environmental Management: Air Quality Act, 2004 – Act No. 39 of 2004, the National Environmental Management: Integrated Coastal Management Act, 2008 – Act No. 24 of 2008, and the National Environmental Management: Waste Act, 2008 – Act No. 59 of 2008, and the SEMA's Regulations), and is not intended to be a substitute for the provisions of the NEMA, the EIA Regulations or the SEMAs, in any way. Adherence to the requirements in terms of the NEMA, the EIA Regulations, and the SEMAs does, however, not absolve the applicant from also adhering to the requirements of any other legislation applicable to the undertaking of the activity.

Enquiries and Comments: All enquiries and comments should be addressed to – The Chief Director: Environmental and Land Management, Department of Environmental Affairs & Development Planning, Private Bag X9086, Cape Town, 8000, South Africa, tel: + 27 21 483 4791 and fax: + 27 21 483 4185

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ACRONYMS

DEA&DP	Western Cape Department of Environmental Affairs and Development Planning
EAP	Environmental Assessment Practitioner
ECA	Environment Conservation Act, 1989 (Act No. 73 of 1989)
EIA	Environmental Impact Assessment
I&AP	Interested and Affected Party
NEMA	National Environmental Management Act, 1998 (Act No. 107 of 1998)
NEMAA	National Environmental Management Amendment Act, 2008 (Act No. 62 of 2008)
NEM: AQA	National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004)
NEM: WA	National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008)
SEMA	Specific Environmental Management Act

1. INTRODUCTION

On 21 April 2006 the Minister responsible for Environmental Affairs promulgated Regulations in terms of Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA")¹. When these Regulations came into effect on 3 July 2006² they replaced the Environmental Impact Assessment ("EIA") Regulations that were promulgated in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989) ("ECA") in 1997³, and introduced new provisions for EIAs. Subsequently, the National Environmental Management Amendment Act, 2008 (Act 62 of 2008) ("NEMAA"), was promulgated on 9 January 2009⁴ and came into effect on 1 May 2009⁵. The NEMAA made a number of significant amendments to the general provisions applicable to EIAs. On 18 June 2010 the Minister responsible for Environmental Affairs promulgated amended EIA Regulations in terms of Chapter 5 of NEMA⁶. From the date of effect of these amended EIA Regulations, 2 August 2010, these amended EIA Regulations replaced the previous EIA Regulations that were promulgated on 21 April 2006.

It must also be noted that the definition of "Environmental Authorisation" in terms of NEMA has been amended and now reads "*when used in Chapter 5 means the authorisation by a competent authority of a listed activity or specified activity in terms of this Act, and includes a similar authorisation contemplated in a specific environmental management Act*". In other words, *inter alia*, the following are all considered to be an "Environmental Authorisation": an Environmental Authorisation issued for an activity listed in Listing Notice 1, 2 or 3⁷; an atmospheric emissions licence in terms of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) ("NEM: AQA"); and a waste management licence in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) ("NEM: WA"). As such the general provisions of NEMA that applies to an application for and consideration of an application for environmental authorisation applies to all of these applications.

It must further be noted that as part of an application for a waste management licence or an atmospheric emissions licence the application must also be subjected to the EIA process as stipulated in the EIA Regulations promulgated in terms of NEMA. While a number of different authorisations might therefore be required (an Environmental Authorisation, a waste management licence and/or an atmospheric emissions licence), one integrated EIA process must be followed in accordance with the requirements as stipulated in the EIA Regulations, with the specific requirements of the relevant specific environmental management Act ("SEMA(s)") to also be adhered to over and above the requirements of the EIA Regulations⁸.

¹ Government Notice No. R. 385, R. 386, and R. 387 in Government Gazette No. 28753 of 21 April 2006 refer.

² Government Notice No. R. 612, R. 613, R. 614, R. 615, and R. 616 in Government Gazette No. 28938 of 23 June 2006 refer.

³ Government Notice No. R. 1182 and R. 1183 in Government Gazette No. 18261 of 5 September 1997 refer.

⁴ Government Notice No. 22 in Government Gazette No. 31789 on 9 January 2009 refers.

⁵ Government No. 27 in Government Gazette No. 32156 of 21 April 2009 refers.

⁶ Government Notice No. R. 543, R. 544, R. 545, R. 546 and R. 547 in Government Gazette No. 33306 of 18 June 2010 refer.

⁷ Government Notice No. R. 544, R. 545, and R. 546 in Government Gazette No. 33306 of 18 June 2010 refer.

⁸ Section 24(4)(b)(vii) of NEMA refers.

In light of the above, this guideline, which forms part of the *Environmental Impact Assessment Guideline and Information Document Series* (available on the Department's website at <http://www.capecoast.gov.za/eadp>) provides information and guidance for applicants, authorities and interested and affected parties ("I&APs") on appeals in terms of NEMA, the EIA Regulations, the NEM: AQA, and NEM: WA.

This guideline must be read together with the NEMA, the EIA Regulations, the relevant SEMA(s) and its Regulations, and is not intended to be a substitute for the provisions of the NEMA, the SEMAs or the Regulations, in any way. Adherence to the requirements in terms of the NEMA and the EIA Regulations, the SEMAs and its Regulations does, however, not absolve the applicant from also adhering to the requirements of any other legislation applicable to the undertaking of the activity.

2. DEFINITIONS

"Applicant", means a person who has submitted or who intends to submit an application.

"Competent Authority", means the authority who in terms of the provisions of the NEMA and the EIA Regulations is identified as the authority who must consider and decide on an application in respect of a specific listed activity.

Note: The "Competent Authority"⁹ in terms of an application for environmental authorisation for an activity listed in Listing Notice 1, 2 or 3, is not necessarily the same authority as the "Licensing Authority" in terms of the NEM:WA¹⁰ or NEM: AQA¹¹.

"Days" means calendar days.

Note: When a period of days must in terms of these Regulations be reckoned from or after a particular day, that period must be reckoned as from the start of the day following that particular day to the end of the last day of the period, but if the last day of the period falls on a Saturday, Sunday or public holiday, that period must be extended to the end of the next day which is not a Saturday, Sunday or public holiday. The period of 15 December to 2 January must be excluded in the reckoning of days. Where a timeframe is affected by the 15 December to 2 January period, the timeframe must be extended by the number of days falling within the 15 December to 2 January period. Where a timeframe is affected by one or more public holidays, the timeframe must be extended by the number of public holiday days falling within that timeframe.

⁹ Section 24C of NEMA refers.

¹⁰ Section 43 of the NEM: WA refers.

¹¹ Section 36 of the NEM: AQA refers.

“Department”, means the Western Cape Department of Environmental Affairs and Development Planning;

“Environmental Assessment Practitioner” (EAP), means the individual responsible for planning, management and coordination of environmental impact assessments, strategic environmental assessments, environmental management programmes or any other appropriate environmental instrument introduced through the Regulations.

Note: If exemption from the appointment of an EAP has been applied for, the applicant must perform the tasks required of an EAP, as indicated in this guideline.

“Environmental Authorisation”, means the authorisation by a competent authority of a listed activity or specified activity in terms of this Act, and includes a similar authorisation contemplated in a specific environmental management Act.

“Interested and Affected Party” (I&AP), for the purposes of Chapter 5 of the NEMA and in relation to the assessment of the environmental impact of a listed activity or related activity, means an interested and affected party contemplated in Section 24(4)(a)(v), and which includes-

- (a) any person, group of persons or organisation interested in or affected by such operation or activity; and
- (b) any organ of state that may have jurisdiction over any aspect of the operation or activity.

“NEMA EIA Regulations”, mean the Environmental Impact Assessment Regulations promulgated in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (“NEMA”)¹².

“Organ of State”, means -

- (a) any department of State or administration in the national, provincial or local sphere of government; or
- (b) any other functionary or institution –

- i. exercising a power or performing a function in terms of the Constitution or a Provincial Constitution; or
- ii. exercising a public power or performing a public function in terms of any Legislation

but does not include a court or a judicial officer.

Note: Examples of organs of state include: Municipalities (both the District and Local Municipality), Heritage Western Cape, CapeNature, the Department of Water Affairs, etc.

“Previous regulations” means the Environmental Impact Assessment regulations published in terms of:

- sections 26 and 28 of the ECA, by Government Notice No. R. 1183 of 5 September 1997; or
- NEMA, by Government Notice No. R. 385 in the Government Gazette of 21 April 2006.

“Public Participation Process”, means a process by which potential interested and affected parties are given an opportunity to comment on, or raise issues relevant to, an application.

“State department”, means any department or administration in the national or provincial sphere of government exercising functions that involve the management of the environment or that administer a law relating to a matter affecting the environment.

¹² Government Notice No. R. 543, R. 544, R. 545, R. 546 and R. 547 in Government Gazette No. 33306 of 18 June 2010 refer.

Note: Examples of State departments include: the Department of Water Affairs, Department of Agriculture, etc. Whilst all State departments are organs of State, not all organs of State are State departments (e.g. Municipalities are organs of State, but not State departments).

3. APPEAL APPLICATIONS

3.1 Types of appeal applications

The provisions of the NEMA EIA Regulations¹³ give effect to the appeal right afforded by the provisions of NEMA¹⁴. No appeal is available if the Provincial Minister responsible for Environmental Affairs took a decision capacity as the competent authority. An appeal may, however, be lodged with the Provincial Minister responsible for Environmental Affairs against a decision taken by the Department on an application, which may include a:

3.1.1 Decision by the Department to grant or refuse environmental authorisation

Any affected person may appeal the decision taken by the Department to grant or refuse environmental authorisation to undertake a listed activity in terms of the NEMA EIA Regulations.

3.1.2 Decision by the Department to amend an environmental authorisation

In terms of the NEMA EIA regulations¹⁵ either an applicant may apply to or the Department on its own initiative may decide to amend an environmental authorisation. The amendment decision taken by the Department may be appealed.

3.1.3 Decision by the Department to amend an environmental management programme

In terms of the NEMA EIA regulations¹⁶ either an applicant may apply to or the Department on its own initiative may decide to amend an environmental authorisation. The amendment decision taken by the Department may be appealed.

3.1.4 Decision by the Department to suspend an environmental authorisation

In terms of the NEMA EIA Regulations¹⁷ the Department may suspend an environmental authorisation. The Department's decision to suspend an environmental authorisation may be appealed.

3.1.5 Decision by the Department on an exemption application

NEMA¹⁸ and the EIA Regulations¹⁹ allow an applicant to apply for exemption from certain provision of NEMA and any provision of the EIA Regulations. Any affected person may appeal the decision taken by the Department to grant or refuse the exemption applied for.

¹³ Chapter 7 of GN No. R. 543 of 18 June 2010 refers.

¹⁴ Section 43 of NEMA refers.

¹⁵ Regulation 46(1) of GN No. R. 543 of 18 June 2010 refers.

¹⁶ Regulation 49 of GN No. R. 543 of 18 June 2010 refers.

¹⁷ Regulation 47 of GN No. R. 543 of 18 June 2010 refers.

3.2 Notification of a decision made by the Department

On having decided on an application, the Department will, in writing and within 2 days, notify the applicant of the outcome of the decision, give reasons for the decision, and draw the attention of the applicant to the fact that an appeal may be lodged against the decision.

The applicant must, in writing, within 12 days of the date of the decision (i.e. within 12 days after the date the decision was made by the Department and not within 12 days of having been notified of the decision) notify the registered I&APs of the outcome of the decision, refer to the Department's reasons for the decision as contained in the copy of the Department's decision to be attached to the notice, and draw their attention to the fact that an appeal may be lodged against the decision. In addition to the notice to the registered I&APs, the applicant must also within 12 days of the date of the decision place a notice in the same newspaper(s) used for the placing of notices during the public participation process that was undertaken, informing I&APs of the Department's decision, where the I&APs can access a copy of the Department's decision (note that the applicant must give access to a copy of the decision to I&APs), and draw their attention to the fact that an appeal may be lodged against the decision, and the manner in which to lodge an appeal against the decision.

Note: An appeal may suspend an environmental authorisation.²⁰ If it has been decided that an appeal will suspend an environmental authorisation, the activity, including site preparation, may not commence until expiry of the statutory 20 day appeal notice period. In the event that an appeal notice and subsequent appeal is lodged, the effect of the environmental authorisation will be suspended until such time as the appeal is decided. The first condition attached to the environmental authorisation will include these provisions.

3.3 Submitting a Notice of intention to Appeal (see attached)

A person who wishes to appeal against a decision of the Department, must submit a Notice of Intention to Appeal with the Provincial Minister responsible for Environmental Affairs within 20 days after the date of the decision (i.e. within 20 days after the date the decision was made by the Department the Notice must reach the Provincial Minister and not within 20 days of having been notified of the decision).

If the appellant is the applicant, the appellant must provide each registered I&AP, within 10 days of having submitted the Notice of Intent to Appeal with the Provincial Minister, with a copy of the Notice of Intent to Appeal as well as a notice indicating that a copy of the appeal submission will be made available for inspection for a 30-day period starting on the day of lodging the appeal submission with the Provincial

¹⁸ Section 24M of NEMA refers.

¹⁹ Regulation 50 of GN No. R. 543 of 18 June 2010 refers.

²⁰ Section 43(7) of NEMA refers.

Minister²¹ (i.e. the notice to the registered I&APs must reach the registered I&APs within 10 days of having submitted the Notice of Intent to Appeal with the Provincial Minister).

If the appellant is a person other than the applicant, the appellant must provide the applicant, within 10 days of having submitted the Notice of Intent to Appeal with the Provincial Minister, with a copy of the Notice of Intent to Appeal as well as a notice indicating that a copy of the appeal submission will be made available for inspection for a 30-day period starting on the day of lodging the appeal submission with the Provincial Minister (i.e. the notice to the registered I&APs must reach the registered I&APs within 10 days of having submitted the Notice of Intent to Appeal with the Provincial Minister).

Note: Proof of the fact that a copy of the Notice of Intent to Appeal was also served on the registered I&APs/applicant, must accompany the appeal submission when it is lodged with the Provincial Minister (e.g. a list of the registered mail sent or a copy of the facsimile report or a copy of the electronic mail sent).

3.4 Lodging of an appeal submission (see attached)

Following the lodging of the Notice of Intent to Appeal, the appeal submission must be submitted, on the official Appeal Form (see attached), to the Provincial Minister (see the address in the Appeal Form attached) within 30 days after the lapsing of the 20 day period allocated for the submission of the Notice of Intention to Appeal (i.e. within 50 days after the date of the decision the appeal submission much reach the Provincial Minister). An appeal submission must be accompanied by a statement setting out the grounds of the appeal, supporting documentation that is referred to in the appeal but is not in the possession of the Provincial Minister (i.e. new information), confirmation by the appellant that copies of the notice has been served on the relevant parties and that the appeal submission was made available for inspection, together with proof that a copy of the notice was served on the relevant parties and that the appeal submission was made available for inspection (e.g. a copy of the notice sent, and a list of the registered mail sent or a copy of the facsimile report or a copy of the electronic mail sent).

Note: The appellant must make the appeal submission available for inspection by the other parties (applicant/registered I&APs) for a 30-day period from the date of lodging the appeal submission with the Provincial Minister. While the notice to the other parties (which had to accompanied the copy of the Notice of Intent of Appeal served on the other parties) had to indicate that the appeal submission will be made available for inspection for a 30-day period starting on the day of lodging the appeal submission with the Provincial Minister, the appellant will have to indicate to the other parties when exactly the appeal submission will be/was lodged with the Provincial Minister. This indication must be provided either before the lodging of the appeal submission or on the day of lodging the appeal submission. Proof of the fact that a copy of the appeal submission was made available to the applicant/registered I&APs (e.g. a list of the registered mail sent or a copy of the facsimile report or a copy of the electronic mail sent), together with copies of the relevant notices, must be submitted to the Provincial Minister either together with the appeal submission or within 10 days of the submission of the appeal submission to the Provincial Minister.

²¹ Regulation 60(2)(b) of GN No. R. 543 refers.

3.5 Responding and Answering Statements

A person who has received a Notice of Intention to Appeal from an appellant may make a submission called a Responding Statement to the Provincial Minister within 30 days from the date the appeal submission was lodged with the Provincial Minister. The respondent must, on the same day that the Responding Statement is submitted to the Provincial Minister, serve a copy of the Responding Statement on the appellant. The Responding Statement must also clearly indicate whether the Responding Statement introduces new information not dealt with in the appeal submission of the appellant.

Note: Proof of the fact that a copy of the Responding Statement was also served on the appellant, must be submitted to the Provincial Minister on the same day that the Responding Statement is submitted to the Provincial Minister (e.g. a list of the registered mail sent or a copy of the facsimile report or a copy of the electronic mail sent).

Only if the Responding Statement introduces any new information not dealt with in the appeal submission of the appellant, is the appellant entitled to submit an Answering Statement to such new information to the Provincial Minister, within 30 days of the submission of the Responding Statement to the Provincial Minister. The appellant must, within 10 days of having submitted the Answering Statement to the Provincial Minister, serve a copy of the Answering Statement on the respondent who submitted the new information. The Answering Statement must also clearly indicate what new information not dealt with in the appeal was introduced by the Responding Statement.

Note: Proof of the fact that a copy of the Answering Statement was also served on the respondent who submitted the new information must be submitted to the Provincial Minister on the same day that the Answering Statement is submitted to the Provincial Minister (e.g. a list of the registered mail sent or a copy of the facsimile report or a copy of the electronic mail sent).

With 30 days being available to submit a responding statement and another 30 days being available to submit answering statements (if new information not dealt with in the appeal is introduced by the responding statement), an applicant (who is not an appellant) may choose to shortly after consideration of the appeal submission(s), decide to send a short written letter to the Provincial Minister, and on the same day serve a copy on the appellants, confirming that the applicant will not be submitting a Responding Statement and that no opportunity to submit an Answering Statement will therefore exist, and that the Provincial Minister may therefore proceed with the consideration of the appeal(s).

3.6 Processing of appeals

- Receipt of an appeal submission, Responding Statement, and Answering Statement will be acknowledged by the Provincial Minister within 10 days of receipt.
- An appeal panel may be appointed to assist with the consideration of the appeal.

Note: If an appeal panel is appointed, the panel will be furnished with a written instruction concerning the issues in respect of which the panel must make recommendations and, the period within which the panels' recommendations must be submitted. If an appeal panel introduces any new information not dealt with in the appeal submission of the appellant or in the statements of the respondents, both the appellant and each respondent are entitled to submit to the panel, within a period determined by the panel, any additional statements rebutting or supporting such new information. Recommendations made by the panel will be submitted to the Provincial Minister in writing.

- Only once the appeal submission and any responding and answering statements (and if applicable, the recommendations of the appeal panel) are received will an appeal be processed and decided within 90 days of receipt of all the relevant information.
- Within 10 days of the decision on the appeal being reached, the appellant and any respondents will be notified, in writing, of the extent to which the decision appealed against is upheld or overturned, together with the reasons for the appeal decision.

3.7 Validity of Appeals

An appeal is invalid if:

- the Notice of Intention to Appeal is not lodged with the Provincial Minister within 20 days of the date of the decision that is to be appealed; or
- a copy of the Notice of Intention to Appeal was not served on the I&APs/applicant as required; or
- the appeal submission is not submitted to Department within 30 days of the lapsing of the 20-day period allocated for the submission of the Notice of Intention to Appeal; or
- the appeal submission was not made available to the I&APs/applicant as required.

Note: The Provincial Minister may, in writing, on good cause extend the period within which a Notice of Intention to Appeal, an appeal submission, Responding Statement or Answering Statements must be submitted.

3.9 Pending Applications and Appeals

Appeals lodged in terms of decisions made in terms of the previous regulations will be processed in terms of the applicable previous regulations.



NOTICE OF INTENTION TO APPEAL FORM (August 2010)

(A digital copy of this form may be obtained from the Department's website at <http://www.capegateway.gov.za/eadp>).

(Note: Please consult the Department's *Guideline on Appeals*, August 2010, which is available on the Department's website)

A. DECISION BEING APPEALED

1. Departmental Reference Number of the Decision being appealed:

2. Type of Decision being appealed (please circle the appropriate option):

Environmental Authorisation or refusal	Amendment of Environmental Authorisation	Amendment of Environmental Management Programme	Suspension of Environmental Authorisation	Exemption Notice	Waste Management Licence	Atmospheric Emission Licence
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3. Brief Description of the Decision: _____

4. Date of the decision being appeal (i.e. date on which the decision was made): _____

5. Please indicate how and when you were notified of the decision and attach a copy of the notice you received.

B. APPELLANT'S INFORMATION (PLEASE PRINT)

Name: _____

Address: _____

Tel. _____ Cell. _____

Fax. _____ Email. _____

I, as the Appellant, am: (Please tick the appropriate box below)

the applicant	a registered interested and affected party	other (please specify)
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C. APPEAL NOTICE INFORMATION

If the appellant is the applicant, the appellant must provide each registered I&AP, or if appellant is a person other than the applicant, the appellant must provide the applicant:

- with a copy of the Notice of Intent to Appeal as well as
- a notice indicating that a copy of the appeal submission will be made available for inspection for a 30-day period starting on the day of lodging the appeal submission with the Provincial Minister (i.e. the notice to the registered I&APs must reach the registered I&APs within 10 days of having submitted the Notice of Intent to Appeal with the Provincial Minister).

Proof of the fact that the appeal submission was made available for inspection by the other parties (applicant/registered I&APs) for a 30-day period from the date of lodging the appeal submission with the Provincial Minister, as well as of the indication to the other parties when exactly the appeal submission will be/was lodged with the Provincial Minister (e.g. a list of the registered mail sent or a copy of the facsimile report or a copy of the electronic mail sent), together with copies of the relevant notices, must be submitted to the Provincial Minister either together with the appeal submission or within 10 days of the submission of the appeal submission to the Provincial Minister.

D. SUBMISSION ADDRESSED

This notice must reach the Provincial Minister at the address listed below within 20 days after the date of the decision being appealed:

By post: Attention: Jaap de Villiers
Western Cape Minister of Local Government, Environmental Affairs & Development Planning
Private Bag X9186, Cape Town, 8000 or

By facsimile: (021) 483 4174 or

By hand: Attention: Mr Jaap de Villiers (Tel: 021-483 3721)
9th floor Utilitas Building
1 Dorp Street, Cape Town, 8001

Note: Appeal notices not submitted to the above address will not be regarded as valid.

E. SIGNATURE OF THE APPELLANT

Appellant signature

Date



APPEAL FORM (August 2010)

(A digital copy of this form may be obtained from the Department's website at <http://www.capegateway.gov.za/eadp>).

(Note: Please consult the Department's **Guideline on Appeals**, August 2010, which is available on the Department's website)

A. DECISION BEING APPEALED

1. Departmental Reference Number of the Decision being appealed:

2. Type of Decision being appealed (please circle the appropriate option):

Environmental Authorisation or refusal	Amendment of Environmental Authorisation	Amendment of Environmental Management Programme	Suspension of Environmental Authorisation	Exemption Notice	Waste Management Licence	Atmospheric Emission Licence
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3. Brief Description of the Decision: _____

4. Date of the decision being appeal (i.e. date on which the decision was made): _____

B. APPELLANT'S INFORMATION

5. Appellant's information (PLEASE PRINT):

Name: _____

Address: _____

Tel. _____ Cell. _____

Fax. _____ Email. _____

C. APPEAL NOTICE INFORMATION

- 6. Please indicate the date you were notified of the Department's decision. _____
- 7. Have you lodged a Notice of Intention to Appeal within 20 days of the date of the decision taken by the Department? **Yes** / **No** (If "Yes", attach a copy herewith.)
- 8. Please indicate the date your Notice of Intention to Appeal was lodged. _____
- 9. Has a copy of the Notice of Intention to Appeal been served on the Applicant/all Registered I&AP's? **Yes** / **No**
- 10. Please indicate the date on which a copy of the Notice of Intent to Appeal was served on the Applicant/all Registered I&APs. _____

Note: Proof of the fact that a copy of the Notice of Intent to Appeal was served on the registered I&APs/applicant, must be attached to this appeal submission (e.g. a list of the registered mail sent or a copy of the facsimile report or a copy of the electronic mail sent).

- 11. Did the Notice indicate where and for what period the appeal submission will be available for inspection? **Yes** / **No**
- 12. Please indicate where and for what period the appeal submission has been made available for inspection by the Applicant/all Registered Interested and Affected Parties.

Note: Proof of the fact that the appeal submission was made available for inspection by the other parties (applicant/registered I&APs) for a 30-day period from the date of lodging the appeal submission with the Provincial Minister, as well as of the indication to the other parties when exactly the appeal submission will be/was lodged with the Provincial Minister (e.g. a list of the registered mail sent or a copy of the facsimile report or a copy of the electronic mail sent), together with copies of the relevant notices, must be submitted to the Provincial Minister either together with the appeal submission or within 10 days of the submission of the appeal submission to the Provincial Minister.

D. GROUNDS FOR APPEAL

13. Provide a statement setting out the grounds of your appeal.

14. Is your appeal based on factors associated with the process that was followed by the applicant/Environmental Assessment Practitioner/the Department in reaching the decision?

Yes / **No** (Circle the appropriate response). Please provide details.

15. Is your appeal based on factors associated with matters of unacceptable environmental impacts/extenuating circumstances not taken into account by the competent authority?

Yes / **No** (Circle the appropriate response). Please provide details.

16. Have your appeal issues been raised previously in the public participation process?

Yes / **No** (Circle the appropriate response). Please provide details.

17. Are you fundamentally opposed to the decision (e.g. to any development activity on the site)?

Yes / **No** / **Not applicable** (Circle the appropriate response). Please provide details.

18. Are you in favour of the decision of the Department if your concerns can be remedied by rectifying the process or by mitigating or eliminating an impact of the activity?

Yes / **No** / **Not applicable** (Circle the appropriate response). Please provide details.

19. Please indicate what measures you propose to have your concerns remedied.

20. Does your appeal contain any new information that was not submitted to the Environmental Assessment Practitioner (EAP) / or registered I&AP's/ or the Department prior to the Department's decision?

Yes / **No** (Circle the appropriate response). If the answer above is "Yes" please explain what this information is and why it should be considered by Provincial Minister and why it was not made available to the EAP/ or I&AP/ or the Department prior to the decision. (Please ensure that the new information is attached hereto.)

21. Please clearly list your appeal issues.

22. Please provide an explanation of why you listed each issue in section 21 above.

23. Please provide details of how you will be or have been affected by each issue listed under 21 above.

E. SUBMISSION ADDRESS

This appeal submission must reach the Provincial Minister at the address listed below within 30 days after the lapsing of the 20 days after the date of the decision being appealed (i.e. within 50 days after the date of the decision):

By post: Attention: Jaap de Villiers
Western Cape Minister of Local Government, Environmental Affairs & Development
Planning
Private Bag X9186, Cape Town, 8000 or

By facsimile: (021) 483 4174 or

By hand: Attention: Mr Jaap de Villiers (Tel: 021-483 3721)
9th floor Utilitas Building
1 Dorp Street, Cape Town, 8001

Note: Appeal notices not submitted to the above address will not be regarded as valid.

F. SIGNATURE OF THE APPELLANT

Appellant signature

Date