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**DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT**

NO. 4121

30 November 2023

**NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998)****CONSULTATION ON THE INTENTION TO ADOPT THE SOLAR EXCLUSION NORM AND EXCLUDE THE DEVELOPMENT AND EXPANSION OF SOLAR PHOTOVOLTAIC FACILITIES FROM THE REQUIREMENT TO OBTAIN AN ENVIRONMENTAL AUTHORISATION**

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries and the Environment, give notice of my intention to adopt the Norm for the Exclusion of the Development and Expansion of Solar Photovoltaic Facilities in Areas of Low or Medium Environmental Sensitivity, in terms of section 24(10) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and exclude, in terms of section 24(2)(d) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) activities identified in terms of section 24(2)(a) and (b) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) for the development and expansion of solar photovoltaic facilities, including any associated activity or infrastructure, from the requirement to obtain an environmental authorisation, based on compliance with the Norm.

Section 24(2)(c),(d) and (e) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) provide for the Minister, or MEC in concurrence with the Minister, to identify activities and geographical areas within which identified activities may be excluded from the requirement to obtain an environmental authorisation, while section 24(2)(d) specifically provides the ability to exclude activities based on compliance with prescribed norms or standards, the development of which is provided for in section 24(10) of the National Environmental Management Act, 1998 (Act No. 107 of 1998).

This Norm, entitled "Norm for the Exclusion of the Development and Expansion of Solar Photovoltaic Facilities in Areas of Low or Medium Environmental Sensitivity" has been prepared to provide the rules under which activities for the development and expansion of solar photovoltaic facilities, identified in terms of section 24(2)(a) and (b) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and contained in the Environmental Impact Assessment Regulations Listing Notice 1, 2 or 3 of 2014, promulgated under section 24(5) of the National Environmental Management Act, 1998 (Act No. 107 of 1998), as well as any listed or specified activities associated with and integral to the realisation of such facility, are excluded from the requirement to obtain an environmental authorisation prior to commencement, while meeting the objectives of the Act.

Over the past ten years, in order to streamline and simplify the environmental impact assessment process, the Department of Forestry, Fisheries and the Environment has undertaken a number of strategic environmental assessments related to energy technologies and grid infrastructure which transmits and distributes the energy generated. The information gained and generated from the strategic environmental assessments has allowed for the development of a number of supporting environmental management instruments, which provide guidance and facilitate the exclusion of identified activities from the requirement to obtain an environmental authorisation prior to commencement. One of the guidance tools developed is the national web based environmental screening tool, which provides guidance on

environmental sensitivities of a specific geographical location or site related to various identified environmental themes. Environmental sensitivities are rated as “very high”, “high”, “medium” or “low”. In addition to the development of environmental management instruments, in 2022 the sector was professionalised with the requirement for an environmental assessment practitioner needing to be registered by the registration authority appointed by the Minister. The development of this Norm is part of the ongoing initiative to streamline the environmental legislative framework and to gain the benefits of the professionalisation of the environmental sector.

This exclusion will apply only to activities identified in terms of section 24(2)(a) and (b) of the National Environmental Management Act, 1998 (Act No. 107 of 1998), subject to compliance with the Norm for the Exclusion of the Development and Expansion of Solar Photovoltaic Facilities, as set out in the Schedule while the requirements of any other relevant legislation remain applicable.

The proposed Norm and associated excluded activities have been subjected to public comments and the following specific changes have been made in response to comments received:

- a. the definition of “footprint” has been amended to provide clarity that the footprint includes the buffer;
- b. allowing the use of a site sensitivity verification undertaken within the preceding six years in support of a registration request; and
- c. new provisions have been added-
  - i. which restricts the applicability of the Norm to activities which have not yet commenced;
  - ii. which requires, where possible, that land which has already been modified be considered for the location of the proposed facility;
  - iii. which requires the relevant specialist to identify areas on a map within the corridor in which development is not permitted due to environmental sensitivity and such areas are avoided;
  - iv. which identifies that the timeframe of the site sensitivity verification inspection must have a duration for a period of time as necessitated by the sensitivity and size of the facility;
  - v. requiring the specialist to provide evidence of the site inspection having been undertaken by providing a track on a map where the specialist walked and at least four documented coordinates on the site with photographs and a description of the habitat at that site;
  - vi. containing additional guidance with respect to the process when required information is missing or incomplete from the registration documentation; and
  - vii. reflecting more detail regarding consultation requirements.

Members of the public are invited to submit written comments or inputs, within 15 days after the publication of this Notice in the Gazette, or of a newspaper notice calling for comments, whichever period occurs last, to the following addresses:

By post to: The Director-General  
Department of Forestry, Fisheries and the Environment  
Attention: Dr D Fischer  
Private Bag X447  
PRETORIA  
0001

By hand at: Environment House  
473 Steve Biko Road  
ARCADIA  
0083

By e-mail: [dfischer@dffe.gov.za](mailto:dfischer@dffe.gov.za)

Any inquiries in connection with the notice can be directed to Dr Dee Fischer at [dfischer@dffe.gov.za](mailto:dfischer@dffe.gov.za) or (012) 399 8843. Comments or inputs received after the closing date may not be considered.

The Department of Forestry, Fisheries and the Environment complies with the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). Comments received and responses thereto are collated into a comments and responses report which will be made available to the public as part of the consultation process. If a commenting party has any objection to his/her name, or the name of the represented company/organisation, being made publicly available in the comments and responses report, such objection should be highlighted in bold as part of the comments submitted in response to this government notice.



**BARBARA DALLAS CREECY**  
**MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT**

## SCHEDULE

### NORM FOR THE EXCLUSION OF THE DEVELOPMENT AND EXPANSION OF SOLAR PHOTOVOLTAIC FACILITIES IN AREAS OF LOW OR MEDIUM ENVIRONMENTAL SENSITIVITY

#### 1. Definitions

In this Schedule a word defined in the National Environmental Management Act, 1998 (Act No. 107 of 1998) or the Environmental Impact Assessment Regulations, 2014, as amended has the same meaning, and unless the context indicates otherwise —

“Agricultural Specialist Assessment Protocol” means the Agricultural Protocol for the Specialist Assessment and Minimum Report Content Requirements of Environmental Impacts on Agricultural Resources by Onshore Wind and/or Solar Energy Generation Facilities where the Electricity Output is 20MW or more, published under Government Notice No. 320 in Government Gazette No. 43110 of 20 March 2020;

“competent authority” means the organ of state that would have been designated by section 24C of the Act with considering an application for an environmental authorisation in respect of a listed or specified activity;

“corridor” means a belt of land linking two locations, in which a final servitude may be registered and within which linear infrastructure integral to the solar photovoltaic installation is proposed;

“developer” means a proponent that has successfully registered activities in terms of the Norm for the Exclusion of the Development and Expansion of Solar Photovoltaic Facilities in Areas of Low or Medium Environmental Sensitivity;

“environmental scientist” means a person registered under the Natural Scientific Professions Act, 2003 (Act No. 27 of 2003) by the South African Council of Natural Scientific Professions under the specific field;

“Eskom” means Eskom Holdings SOC Ltd or its successor;

“facility” means the solar photovoltaic installation, the associated infrastructure and the linear infrastructure which is required as an integral part of the installation, including the land on which the installation and infrastructure is to be located;

“footprint” means the area on which the solar photovoltaic installation and associated structures and infrastructure, including battery storage where relevant, is proposed to be located including any relevant buffer, but excludes the corridor;

“linear infrastructure” is characterised by its generally linear spatial form and in the context of this Norm such linear infrastructure must provide either services or access to the proposed facility and must form an integral part of the proposed facility;

“Listing Notice 1” means the Environmental Impact Assessment Regulations Listing Notice 1 of 2014 published under Government Notice No. R. 983 in Government Gazette No. 38282 of 4 December 2014, as amended from time to time;

"Listing Notice 2" means the Environmental Impact Assessment Regulations Listing Notice 2 of 2014 published under Government Notice No. R. 984 in *Government Gazette* No. 38282 of 4 December 2014 as amended from time to time;

"Listing Notice 3" means the Environmental Impact Assessment Regulations Listing Notice 3 of 2014 published under Government Notice No. R. 985 in *Government Gazette* No. 38282 of 4 December 2014 as amended from time to time;

"main electricity distribution substation" means a distribution substation with a capacity of up to 132 kilovolts;

"main electricity transmission substation" means a transmission substation with a capacity of 220 kilovolts or more;

"pre-negotiation" means discussion with the landowner prior to formal negotiation, which results in the signing of a letter of no-objection or a letter of agreement which documents an in principle agreement that the corridor alignment may traverse the relevant landowner's property;

"proponent" means a person that submits a request for registration to undertake an activity contemplated in paragraph 3 of this Norm and is responsible for ensuring compliance with the conditions set in this Norm;

"Renewable Energy Development Zones Notice" means the Notice containing the procedures to be followed when applying for environmental authorisation for the development of large scale wind and solar photovoltaic energy generation activities when occurring in geographical areas of strategic importance, published under Government Notice No. 114 published in *Government Gazette* No 41445 of 16 February 2018, as amended from time to time, Government Notice No. 142 published in *Government Gazette* No. 44191 of 26 February 2021 and Government Notice No. 145 in *Government Gazette* No. 44191 of 26 February 2021;

"screening tool" means the National Web Based Environmental Screening Tool which is accessible at <https://screening.environment.gov.za>;

"specialist" means a person who is skilled in a specific and restricted field and is registered under the Natural Scientific Professions Act, 2003 (Act No. 27 of 2003) by the South African Council of Natural Scientific Professions under a specific field of practice;

"Strategic Transmission Corridors Notice" means the Notice containing geographical areas of strategic importance for the development of electricity transmission and distribution infrastructure and of procedures to be followed when applying for or deciding on environmental authorisations for large scale electricity transmission or distribution development activities when occurring in geographical areas of strategic importance, published under Government Notice No. 113 in *Government Gazette* No. 41445 of 16 February 2018, as amended from time to time and Government Notice No. 1637 published in *Government Gazette* No. 45690 of 24 December 2021;

"the Act" means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

“the Appeals Regulations” means the National Appeals Regulations, 2014, published under Government Notice No. R. 993 in Government Gazette No. 38303 of 8 December 2014, as amended from time to time; and

“the EIA Regulations” means the Environmental Impact Assessment Regulations, 2014, published under Government Notice No. R. 982 in Government Gazette No. 38282 of 4 December 2014, as amended from time to time.

## 2. Scope of the Exclusion

2.1. The activities contemplated in paragraph 3 of this Norm are excluded from the requirement to obtain an environmental authorisation when undertaken in compliance with the requirements contemplated in this paragraph as well as paragraphs 4, 5, 6.1, read with paragraph 7 or 8 of this Norm–

- 2.1.1. where the activities have not yet been commenced with;
- 2.1.2. when proposed entirely in areas of “low” or “medium” environmental sensitivity as identified by the screening tool and verified by relevant specialists as contemplated in paragraph 4, for the following environmental themes:
  - 2.1.2.1. Plant species;
  - 2.1.2.2. Animal species;
  - 2.1.2.3. Terrestrial biodiversity;
  - 2.1.2.4. Aquatic biodiversity; and
  - 2.1.2.5. Agriculture;

(a) with the exception of linear infrastructure which forms an integral part of a solar photovoltaic facility, which is located in a pre-negotiated corridor, which may be located in areas of “very high”, “high”, “medium” or “low” environmental sensitivity on condition that the requirements contained in subparagraph 2.2 are complied with.

2.2. The exception of linear infrastructure contemplated in paragraph 2.1.2(a) will only apply if–

- 2.2.1. the mitigation hierarchy has been applied to the pre-negotiated corridor and the environmental assessment practitioner or environmental scientist and specialists confirm in the site sensitivity verification report, that the proposed pre-negotiated corridor avoids areas of “very high” or “high” sensitivity, as far as practically possible;
- 2.2.2. through the site sensitivity verification, the relevant specialists identify areas within the corridor in which development is not permitted to take place due to environmental sensitivity and such areas are avoided;
- 2.2.3. no plant species of conservation concern is removed and no breeding areas of species of conservation concern are impacted on;
- 2.2.4. through the site sensitivity verification, the relevant specialist identifies mitigation measures for any identified environmental impacts for inclusion in the environmental management programme<sup>1 2</sup> and confirms in the site sensitivity verification report that any remaining environmental impact is acceptable after avoidance and mitigation; and

<sup>1</sup> The Generic EMP<sub>r</sub> relevant to an application for substation and overhead electricity transmission and distribution infrastructure which require environmental authorisation as identified in terms of section 24(2) of the Act gazetted in Government Notice No. 435 of Government Gazette No. 42323 published on 22 March 2019 does not apply to this Norm; and the environmental management programme required in terms of this Norm would be specific to the activities/facility to be developed or expanded.

<sup>2</sup> The environmental management programme required in terms of this Norm must include the aspects of the solar photovoltaic facility inclusive of the associated structures and infrastructure, where relevant.



- 2.2.5. the environmental assessment practitioner or environmental scientist and relevant specialist confirm in the site sensitivity verification report that the necessary mitigation measures and areas where development is not permitted have been included and / or demarcated in the environmental management programme.
- 2.3. The corridor contemplated in this Norm is to be determined by the proponent and may not exceed 200 metres in width.
- 2.4. Where any of the requirements contemplated in this paragraph or paragraphs 4, 5 and 6.1 read with paragraphs 7 or 8, cannot be met or are not met, this exclusion does not apply and an application for an environmental authorisation must be submitted.

### 3. Activities

- 3.1 The activities which are the subject of this exclusion relate to the development or expansion of a facility for the generation of electricity from solar photovoltaic technology, where such development or expansion triggers–
- 3.1.1 Activity 1 or Activity 36 of Listing Notice 1; or
- 3.1.2 Activity 1 of Listing Notice 2;

and any associated activity identified in Listing Notice 1, 2 or 3 necessary for the realisation of such facilities<sup>3</sup>.

- 3.2 Identified activities for the development or expansion of battery storage facilities, associated with and integral to the operation of the solar photovoltaic facility, are to be registered under this Norm and not the *Norm for the exclusion of identified activities associated with the development and expansion of battery storage facilities in areas of low or medium environmental sensitivity*.

### 4. Site Sensitivity Verification

- 4.1 Where possible, land which has already been modified should be considered for the location of the proposed facility and the consideration of such land for the location of the proposed facility must be discussed in the site sensitivity verification report.
- 4.2 It is advised that a buffer is identified around the footprint to allow for slight adjustments without the need to resubmit the request for registration contemplated in this Norm<sup>4</sup>, which buffer–
- 4.2.1 must be clearly indicated;
- 4.2.2 must envelope the footprint; and
- 4.2.3 must be subjected to the site sensitivity verification requirements of which the findings must confirm that it is in an area of low or medium environmental sensitivity.
- 4.3 A proponent must ensure that a site sensitivity verification inspection is undertaken for the environmental themes contemplated in paragraph 2.1.2 to confirm whether or not the environmental sensitivity of the footprint and corridor is as identified by the screening tool.
- 4.4 A “very high” or “high” environmental sensitivity rating may be disputed by the specialist, provided that evidence and motivation to substantiate such a change of environmental sensitivity is provided.
- 4.5 The site sensitivity verification must be undertaken-

<sup>3</sup> The Standard for the Development and Expansion of Transmission and Distribution Power Lines and Sub-stations does not apply to a power line which is an integral part of the proposed solar photovoltaic facility falling in the scope of this Norm, the requirements of this Norm will be applicable in such an instance.

<sup>4</sup> A buffer around the linear infrastructure is not anticipated as the width of the corridor must allow for a buffer.

- 4.5.1 for the environmental themes contemplated in subparagraph 2.1.2;
  - 4.5.2 for the footprint as well as the proposed corridor for the linear infrastructure;
  - 4.5.3 by specialists, registered in the field for which they are undertaking the site sensitivity verification and where relevant, with demonstrated experience in the taxonomic group of the species being considered;
  - 4.5.4 within the season which would be most relevant to identify the specific species or vegetation of interest; and
  - 4.5.5 for a period of time as necessitated by the sensitivity of the proposed site and size of the proposed facility.
- 4.6 The site sensitivity verification inspection must be a physical inspection, which must, where relevant, be supplemented by utilising any desk top information available, including any fine scale data available from the provincial department responsible for the environment, provincial conservation authorities, iNaturalist records or the relevant municipality, where available.
- 4.7 Where additional information identified in paragraph 4.6 has been used in the verification process, this information must be identified and referenced in the site sensitivity verification report.
- 4.8 For the agriculture theme, the site sensitivity verification report must confirm that the “allowable development limits” set for solar photovoltaic technology on agricultural land in the Agricultural Specialist Assessment Protocol, are not exceeded.
- 4.9 For the plant and animal species themes, the relevant specialist must confirm the presence, likely presence, or absence of a species of conservation concern within the footprint and corridor identified as “medium” sensitivity by the screening tool<sup>5</sup>.
- 4.10 Should a species of conservation concern be found or have been confirmed to be likely present on the footprint, this exclusion does not apply and an application for an environmental authorisation must be submitted.
- 4.11 Should a species of conservation concern be found or have been confirmed to be likely present in the corridor, this exclusion applies under the conditions contemplated in subparagraph 2.2.
- 4.12 The relevant specialists must consider the cumulative effects for the themes identified in paragraph 2.1.2 and provide a discussion on possible cumulative impacts and the ability to mitigate such impacts in the site sensitivity verification report, which discussion must include a statement of environmental acceptability of any cumulative impacts after mitigation.
- 4.13 The relevant specialists must consider the presence and preservation of ecological corridors and discuss the possible presence and preservation of such ecological corridors.
- 4.14 The outcome of the site sensitivity verification must be recorded in the form of a site sensitivity verification report that confirms or disputes the environmental sensitivity, as identified by the screening tool for each environmental theme identified in paragraph 2.1.2.
- 4.15 The site sensitivity verification report must include verifiable evidence from the specialist's site inspection, including as a minimum:
- 4.15.1 a map showing the specialist's GPS track in relation to the proposed footprint; and
  - 4.15.2 at least 4 spatially representative sample site descriptions from across the inspected area that include as a minimum precise geographical coordinates of the sample site, one in situ photograph of the sample site and a habitat description of the sample site; and
  - 4.15.3 a map identifying any areas within the corridor in which development is not permitted due to environmental sensitivity, where relevant.
- 4.16 A site sensitivity verification report must be prepared by a registered environmental assessment practitioner or a registered environmental scientist and signed off by the relevant specialists, all of

<sup>5</sup> The site sensitivity verification to determine the presence or likely presence of species of conservation concern must be undertaken in accordance with the *Species Environmental Assessment Guidelines* available at: <https://bgis.sanbi.org/>.

whom must meet the requirement of regulation 13(1) of the EIA Regulations, read in the context of this Norm.

## 5. Consultation

5.1 The environmental assessment practitioner or environmental scientist on behalf of the proponent must identify and consult with parties who may be affected by the proposed facility, including as a minimum the following:

- 5.1.1 adjacent landowners and land occupiers;
- 5.1.2 relevant conservation entities;
- 5.1.3 relevant non-governmental organisations involved with ecology, including bird preservation;
- 5.1.4 relevant tourist and farmers associations;
- 5.1.5 the relevant heritage resources authority;
- 5.1.6 the relevant local government authority; and
- 5.1.7 Eskom<sup>6</sup>, where the activities related to the development or expansion of a solar photovoltaic facility are proposed within 2km of a main electricity transmission substation or 1 km of a main electricity distribution substation, as identified by the screening tool.

5.2 The consultation process must as a minimum include the following:

- 5.2.1 notification of the proposed development including–
  - 5.2.1.1 details of the proponent;
  - 5.2.1.2 a detailed project description including the need and desirability of the proposed project;
  - 5.2.1.3 the location of the proposed facility including a map generated at an appropriate scale that displays the extent of the proposed facility in as much detail as possible, overlaid on the identified environmental sensitivities per theme;
- 5.2.2 notification of where the site sensitivity verification report and environmental management programme can be accessed; and
- 5.2.3 a request for inputs and the timeframe in which inputs are to be submitted.

## 6. Application of the exclusion

6.1. This exclusion applies where–

- 6.1.1. the footprint or expanded footprint of a proposed solar photovoltaic facility, including any associated activities contemplated in paragraph 3, is to occur entirely–
  - 6.1.1.1. in areas of “medium” or “low” environmental sensitivity as identified by the screening tool and confirmed to be such by the site sensitivity verification inspection for the environmental themes as identified in paragraph 2.1.2 or
  - 6.1.1.2. in areas where the site sensitivity verification for a specific theme identifies that the “very high” or “high” sensitivity rating of the screening tool is in fact “medium” or “low” sensitivity;

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<sup>6</sup> Consultation is in the form of a request for a letter of consent from Eskom supported by a map of the proposed development boundary in relation to the substations presented as a KMZ file to Eskom Transmission and Distribution Grid Planning via the Grid Access Unit at [GridAccessUnit@eskom.co.za](mailto:GridAccessUnit@eskom.co.za).

6.1.2. the corridor occurs in areas of “very high”, “high”, “medium” or “low” sensitivity subject to compliance with the conditions set out in subparagraph 2.2.

6.2. Where the exclusion does not apply, with the exception of the requirement contained in subparagraph 2.1.1, the entire facility is subject to the requirements of the EIA Regulations, the Renewable Energy Development Zones Notice or the Strategic Transmission Corridors Notice, whichever applies.

## 7. Registration

7.1. Prior to the commencement of the activities related to the development or expansion of a solar photovoltaic facility, the proponent must register the proposed facility with the competent authority.

7.2. The following documents must be submitted for registration:

- 7.2.1. a completed and signed registration form contemplated in Appendix A, prepared by an environmental assessment practitioner or environmental scientists;
- 7.2.2. the screening report for the proposed facility, generated by the screening tool, to be attached as Appendix 1;
- 7.2.3. evidence of the consultation process followed as contemplated in paragraph 5, as well as tabulated responses to inputs received, to be attached as Appendix 2;
- 7.2.4. the final site sensitivity verification report contemplated in paragraphs 4.14, 4.15 and 4.16 and which responds to the inputs provided during the consultation process, to be attached as Appendix 3;
- 7.2.5. the written consent of the landowner or person in control of the land constituting the footprint, to be attached as Appendix 4;
- 7.2.6. confirmation of pre-negotiation with landowners for land within the corridor, to be attached as Appendix 4;
- 7.2.7. a letter of consent from Eskom Holdings SOC Ltd or its successor, which confirms that the proposed layout of the facility will not unnecessarily obstruct access to main electricity transmission or distribution substation, where relevant, to be attached as Appendix 4;
- 7.2.8. a locality map, showing the location of the footprint and pre-negotiated corridor including any areas within the pre-negotiated corridor where no development should take place, overlaid on the confirmed environmental sensitivities, to be attached as Appendix 5;
- 7.2.9. an environmental management programme for the management of impacts from the solar photovoltaic facility which addresses as a minimum, each of the general environmental controls identified in Appendix 10, compiled by the environmental assessment practitioner or environmental scientist and signed off by the relevant specialists, to be attached as Appendix 10;
- 7.2.10. the signed declaration of commitment by the proponent to implement the environmental management programme, to be attached as Appendix 6; and
- 7.2.11. the declaration of independence, curriculum vitae and professional affiliation or registration certification of the EAP or environmental scientist and specialists to be attached as Appendices 7, 8 and 9 respectively.

7.3. Should the proposed footprint or the alignment of the linear infrastructure be amended where such amendment results in the footprint falling outside of the verified buffer<sup>7</sup> or the linear infrastructure alignment falling outside of the verified corridor, the requirements contemplated in paragraphs 4, 5, 6 and 7 of this Norm are applicable and must be complied with.

<sup>7</sup> Where the footprint of the proposed facility is amended and remains within the buffer considered as part of the site sensitivity verification, re-registration is not required.

- 7.4 The registration of the development or expansion will expire if commencement does not occur within 6 years of the date on which the competent authority registered the facility, in which case the process as identified in paragraphs 4, 5, 6 and 7 of this Norm will apply afresh.

## 8. Re-registration

- 8.1. Re-registration of the facility is required when there is a change of ownership of the solar photovoltaic facility or a portion of the facility for which the activities contemplated in paragraph 3 were excluded—
- 8.1.1. prior to construction of the facility; or
  - 8.1.2. prior to the completion of the construction of the facility<sup>8</sup>; or
  - 8.1.3. after completion of the construction phase<sup>9</sup>.
- 8.2. In the case of a change of ownership of a registered facility, the issued registration number is retained by the new owner.
- 8.3. In the case of a change of ownership of a portion of the registered facility, a new registration number must be issued by the competent authority for the portion transferred, while the remaining portion is to be re-registered but will retain the original registration number.
- 8.4. The new owner must submit a completed re-registration form contemplated in Appendix B, completed by the new owner and a signed declaration of commitment to implement the environmental management programme contemplated in paragraph 7.2.9 to the competent authority, within 30 days upon finalisation of a change of ownership, for purposes of updating of the information and commitments, where change of ownership occurs prior to completion of the construction phase; and-
- 8.4.1. the change of ownership relates to the entire registered facility; or
  - 8.4.2. the change of ownership relates to a portion of the registered facility being transferred to a new owner and such transferred portion will become a separate facility.
- 8.5. Where the change of ownership occurs after the finalisation of the construction phase, a re-registration form contemplated in Appendix B must be completed by the new owner and submitted to the competent authority within 30 days upon finalisation of the change of ownership, together with a locality map clearly identifying the portion transferred, the remaining portion and the registration number, to enable the issuing of a new registration number to the new owner.

## 9. Processing of registration

- 9.1. Within 10 days of receipt of the correctly completed registration form and supporting documentation described in paragraph 7.2, or the re-registration form described in paragraph 8 of this Norm, the competent authority must register the facility or any relevant portion of the facility in the case of re-registration and provide the developer with a registration number.
- 9.2. If information is incomplete or missing from the registration request, the competent authority must notify the proponent within 10 days of the receipt of the registration documents of such shortcomings.
- 9.3. On receipt of the registration number, the developer must notify, in writing and within 7 days, those parties consulted as contemplated in paragraphs 5.1 and 7.2.3 that the registration number has been issued.
- 9.4. The developer must provide written notice to the compliance monitoring unit within the competent authority at least 14 days prior to the date on which the first of the activities contemplated in the

<sup>8</sup> The re-registration in this case is required to update the information on the records of the competent authority and to ensure that the new owner declares his/her intention to implement the mitigation measures in the environmental management programme where the facility is still under construction.

<sup>9</sup> The re-registration in this case is required to ensure that infrastructure is registered in the name of the new owner or to provide a registration number for any part of the facility which is transferred to a new owner and is now a separate unit.

scope of this Norm, including site preparation, will commence, in order to facilitate compliance inspections.

- 9.5. The competent authority must keep a register of all exclusions registered or re-registered in terms of this Norm and must make the information available on the website of the competent authority, which register should include as a minimum:
- 9.5.1. the location of the facility excluded;
  - 9.5.2. the name of the registered developer;
  - 9.5.3. the date of registration; and
  - 9.5.4. the location at which the registration documents can be accessed<sup>10</sup>.

## 10. General

- 10.1. The provisions of the Appeal Regulations are applicable to any registration issued in terms of this Norm.
- 10.2. Any amendments required to be made to the environmental management programme during the construction phase must be prepared by an environmental assessment practitioner or environmental scientist and signed off by the relevant specialist.
- 10.3. Registration or re-registration documents and the environmental management programme as well as any amendments to such programme must be available at the registered facility on commencement.
- 10.4. A proponent commits an offence in terms of section 49A(1)(bA) if that proponent contravenes or fails to comply with paragraphs 2.1, 2.2, 4.3, 4.5 to 4.16, 5 or 7.
- 10.5. A person commits an offence in terms of section 49A(1)(bA) if that person contravenes or fails to comply with paragraph 8.
- 10.6. A developer commits an offence in terms of section 49A(1)(bA) if that developer contravenes or fails to comply with paragraphs 9.3, 9.4, 10.2 or 10.3.

## 11. Transitional Arrangements

- 11.1. An application for environmental authorisation for activities contemplated in paragraph 3 of this Schedule submitted in terms of the EIA Regulations, the Renewable Energy Development Zone Notice, or the Strategic Transmission Corridors Notice in the case of any associated activities necessary for the realisation of such facilities, which is pending on the date of coming into effect of this Notice, must be finalised in accordance with the procedures of the EIA Regulations, the Renewable Energy Development Zone Notice or the Strategic Transmission Corridor Notice, or may be withdrawn.
- 11.2. A site sensitivity verification undertaken as part of an application for an environmental authorisation or as part of a previous registration process within a period of six years preceding the submission of a request to register in terms of this Norm, which meets the requirements set out in this Norm, including supporting evidence, may be used to support a registration request in terms of this Norm.
- 11.3. An environmental authorisation issued for the development or expansion of activities contemplated in this Norm remains valid and subject to the requirements of the EIA Regulations.

<sup>10</sup> This could be on the website of the registered developer and at the facility site if construction has commenced or has been finalised.

## APPENDIX A – REGISTRATION FORM

Registration form to request registration in terms of the “*Norm for the Exclusion of the Development and Expansion of Solar Photovoltaic Facilities in Areas of Low or Medium Environmental Sensitivity*” as required by paragraph 7 of this Norm.

FOR OFFICE USE ONLY	
Date of receipt of the registration form	
Registration number	

**PROJECT TITLE (This must include local municipality and/or district municipality and province)**

1. This form must always be used when requesting registration in terms of the “*Norm for the Exclusion of the Development and Expansion of Solar Photovoltaic Facilities in Areas of Low or Medium Environmental Sensitivity*”. Registration in terms of this Norm allows for the exclusion from the requirement to obtain an environmental authorisation from the competent authority for listed and specified activities identified in paragraph 3 of the Norm.
2. All fields must be completed in full. The submission of incomplete information will lead to the registration being returned for inclusion of the missing information as contemplated in paragraph 9.2.
3. 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. Spaces are provided in tabular format and will extend automatically when each space is filled with typing. A legible font type and size must be used when completing the form. The font size should not be smaller than 10pt (e.g., Arial 10).
4. Unless protected by law, all information contained in and attached to this registration form, will become public information on receipt by the competent authority other than the personal information of the landowner/s.
5. Please note that where the competent authority is the national department responsible for the environment, this form must be copied to the relevant provincial environmental department(s) for their information.
6. Where the provincial environmental department is the competent authority, this form must be copied to the national department responsible for the environment at [Norm\\_Standard@dfpe.gov.za](mailto:Norm_Standard@dfpe.gov.za)
7. Maps must be produced using the Hartebeesthoek94 WGS84 coordinate system. Spatial data in shape file (.shp) format with associated metadata, packaged as a ZIP file (.zip), must be included in the supporting documentation. This must be provided electronically (in the form of a USB).

**Departmental Details (example provided is for the national competent authority, where the provincial department is the competent authority, the details hereunder should be changed as relevant):**

Online submission only:

[\(https://sfiler.environment.gov.za:8443/\)](https://sfiler.environment.gov.za:8443/).

Click <https://www.dffe.gov.za/documents/forms/legal> for guidance document which must be complied with in order to upload/submit files to this Competent Authority.

**Physical address:**

Department of Forestry, Fisheries and the Environment

Attention: Chief Director: Integrated Environmental Authorisations  
 Environment House  
 473 Steve Biko Road  
 Arcadia

For Submission enquiries: Contact the Directorate: IEA Strategic Support, Coordination and Reporting at:  
 Email: [EIAApplications@dfre.gov.za](mailto:EIAApplications@dfre.gov.za)

For EIA related implementation queries:  
 Email: [EIAdmin@dfre.gov.za](mailto:EIAdmin@dfre.gov.za)

For EIA Related Interpretation queries in terms of the Listed Activities:  
 Email: [IQ@dfre.gov.za](mailto:IQ@dfre.gov.za)

### COMPETENT AUTHORITY

Identified competent authority to consider the application:	Department of Forestry Fisheries and the Environment
Reason(s) in terms of section 24C of NEMA <sup>11</sup> :	

### DETAILS OF THE PROPONENT

All notifications regarding the registration will be sent to the proponent using the details provided in this section.

Title	Choose a title.
Name of the Applicant	Click or tap here to enter text.
Surname of the Applicant	Click or tap here to enter text.
Name of contact person for applicant (name and surname) (if other)	Click or tap here to enter text.
Company/ Trading name (if any)	Click or tap here to enter text.
Company Registration Number	Click or tap here to enter text.
Physical address	Click or tap here to enter text.
Postal address	Click or tap here to enter text.
Postal code	Click or tap here to enter text.
Telephone	Click or tap here to enter text.
Cellphone	Click or tap here to enter text.
E-mail	Click or tap here to enter text.

<sup>11</sup> National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA).



**ENVIRONMENTAL ASSESSMENT PRACTITIONER OR ENVIRONMENTAL SCIENTIST INFORMATION**

Company of Environmental Assessment Practitioner (EAP) or environmental scientist (ES):		
EAP or ES's name:		
EAP or ES's qualifications:		
Professional affiliation/registration <sup>12</sup> :		
Physical address:		
Postal address:		
Postal code:	Cell:	
Telephone:		
E-mail:		

The appointed EAP/ES and relevant specialists must meet the requirements of regulation 13(1) of the EIA Regulations<sup>13</sup> as if it applies in the context of this Norm and must sign the declaration of independence included as Appendix 7. The declaration which must be sworn under oath must affirm that all the information submitted for the purposes of the registration is true and correct. A separate declaration by the relevant EAP/ES and each specialist is required. The Curriculum Vitae of the EAP/ES and specialists must be included as Appendix 8 and the professional affiliation/registration certificate is to be included as Appendix 9.

**PROJECT INFORMATION AND MAPS**

Please provide a **detailed** description of the project including the associated infrastructure which must include the following:

- preliminary technology to be used;
- associated infrastructure including the details of this infrastructure and a motivation as to the reason that it is regarded as integral to the solar PV facility; and
- MWs to be registered.

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A copy of the final screening report generated by the screening tool (which includes the coordinates of the farms), which identifies the site, the footprint of the proposed solar PV facility and the corridor in which the linear infrastructure, where relevant, will be developed must be included as Appendix 1 of the registration form.

A copy of the final site sensitivity verification report must be included as Appendix 3 of the registration form.

A locality map must be included as Appendix 5 of the registration form. The map must include the following:

- the project site;

<sup>12</sup> A copy of the actual professional registration or confirmation of affiliation must be attached.

<sup>13</sup> The Environmental Impact Assessment Regulations, 2014, published under Government Notice No. R. 982 in Government Gazette No. 38282 of 4 December 2014, as amended from time to time.

- the footprint and buffer of the proposed solar photovoltaic facility including any relevant corridor in which the linear infrastructure is to be developed, overlaid on the identified site sensitivities, including but not limited to vegetation, critical biodiversity area/s, world heritage site, etc.;
- 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;
- a scale bar; and
- GPS co-ordinates of solar photovoltaic facility and infrastructure including, amongst others, power lines (strategic points along the power line), substations, battery storage areas and the access road where relevant.

Accompanying spatial data must be submitted electronically in shape file format (.shp) files with associated metadata, packaged as a ZIP file (.zip).

### SITE DESCRIPTION

Provide a detailed description of the site involved in the registration.

Province/s	
District Municipality/ies	
Local Municipality/ies	
Ward number/s	
Nearest town/s	
Farm name/s and number/s	
Portion number/s	

### LIST OF APPENDICES TO BE POPULATED

		SUBMITTED	
APPENDIX 1	Final screening report	YES	NO
APPENDIX 2	Evidence of consultation	YES	NO
APPENDIX 3	Final site sensitivity verification report	YES	NO
APPENDIX 4	Landowner consent letter, confirmation of pre-negotiation and the letter of consent from Eskom	YES	NO
APPENDIX 5	Locality map	YES	NO
APPENDIX 6	Declaration of commitment by the proponent to implement the environmental management programme	YES	NO
APPENDIX 7	Declaration of independence of the EAP/ES and specialists	YES	NO
APPENDIX 8	Curriculum vitae of the EAP/ES and specialists	YES	NO
APPENDIX 9	Professional affiliation/registration certification of the EAP/ES and specialists	YES	NO
APPENDIX 10	Final environmental management programme	YES	NO

## APPENDIX B – RE-REGISTRATION FORM

Form to request re-registration in terms of the “Norm for the Exclusion of the Development and Expansion of Solar Photovoltaic Facilities in Areas of Low or Medium Environmental Sensitivity” as required by paragraph 8 of this Norm where there is a change of ownership of either the entire registered facility or a portion of the facility or associated or linear infrastructure which occurs-

- prior to construction of the facility; or
- prior to the completion of the construction of the facility<sup>14</sup>; or
- after completion of the construction phase<sup>15</sup>.

### FOR OFFICE USE ONLY

Date of receipt of the re registration form	
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### PROJECT TITLE (This must include local municipality and/or district municipality and province)

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1. This form must always be used when requesting re-registration in terms of the “Norm for the Exclusion of the Development and Expansion of Solar Photovoltaic Facilities in Areas of Low or Medium Environmental Sensitivity”. Registration in terms of the Norm allows for the exclusion from the requirement to obtain an environmental authorisation from the competent authority for listed and specified activities identified in paragraph 3 of the Norm.
2. All fields must be completed in full. The submission of incomplete information will lead to the re-registration being returned for inclusion of the missing information as contemplated in paragraph 9.2.
3. 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. Spaces are provided in tabular format and will extend automatically when each space is filled with typing. A legible font type and size must be used when completing the form. The font size should not be smaller than 10pt (e.g., Arial 10).
4. Unless protected by law, all information contained in and attached to this registration form, will become public information on receipt by the competent authority other than the personal information of the landowner/s.
5. Please note that where the competent authority is the national department responsible for the environment, this form must be copied to the relevant provincial environmental department(s) for their information.
6. Where the provincial environmental department is the competent authority, this form must be copied to the national department responsible for the environment at [Norm\\_Standard@dffe.gov.za](mailto:Norm_Standard@dffe.gov.za).

**Departmental Details (example provided is for the national competent authority, where the provincial department is the competent authority, the details hereunder should be changed as relevant):**

Online submission only:

[\(https://sfiler.environment.gov.za:8443/\)](https://sfiler.environment.gov.za:8443/).

Click <https://www.dffe.gov.za/documents/forms/legal> for guidance document which must be complied with in order to upload/submit files to this Competent Authority.

<sup>14</sup> The re-registration in this case is required to update the information on the records of the competent authority and to ensure that the new owner declares his/her intention to implement the mitigation measures in the environmental management programme where the facility is still under construction.

<sup>15</sup> The re-registration in this case is required to ensure that infrastructure is registered in the name of the new owner or to provide a registration number for any part of the facility which is transferred to a new owner and is now a separate unit.

**Physical address:**

Department of Forestry, Fisheries and the Environment  
 Attention: Chief Director: Integrated Environmental Authorisations  
 Environment House  
 473 Steve Biko Road  
 Arcadia

For Submission enquiries: Contact the Directorate: IEA Strategic Support, Coordination and Reporting at:  
 Email: [EIAApplications@dfpe.gov.za](mailto:EIAApplications@dfpe.gov.za)

For EIA related implementation queries:  
 Email: [EIAdmin@dfpe.gov.za](mailto:EIAdmin@dfpe.gov.za)

For EIA Related Interpretation queries in terms of the Listed Activities:  
 Email: [IQ@dfpe.gov.za](mailto:IQ@dfpe.gov.za)

**COMPETENT AUTHORITY**

Identified competent authority to consider the application:	Department of Forestry Fisheries and the Environment
Reason(s) in terms of section 24C of NEMA <sup>16</sup> :	

**PROJECT DETAILS**

Existing Project Name	
New Project Name <sup>17</sup>	

Existing Registration number <sup>18</sup>	
New Registration number <sup>19</sup>	

**DETAILS OF THE EXISTING REGISTERED DEVELOPER**

Information regarding the re-registration will be sent to the existing registration developer using the details provided in this section.

Title	Choose a title.
Name of the existing registered developer	Click or tap here to enter text.
Surname of the existing registered developer	Click or tap here to enter text.
Name of contact person for existing registered developer (name and surname) (if other)	Click or tap here to enter text.
Company/ Trading name (if any)	Click or tap here to enter text.

<sup>16</sup> National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA).

<sup>17</sup> A new project name can be provided in the case of a change of ownership of associated or linear infrastructure.

<sup>18</sup> In the case of a change of ownership the existing registration number is maintained.

<sup>19</sup> A new registration number will be provided by the competent authority in the case of a change of ownership of a portion of the facility.

Company Registration Number	Click or tap here to enter text.
Physical address	Click or tap here to enter text.
Postal address	Click or tap here to enter text.
Postal code	Click or tap here to enter text.
Telephone	Click or tap here to enter text.
Cellphone	Click or tap here to enter text.
E-mail	Click or tap here to enter text.

#### DETAILS OF THE NEW OWNER

Information regarding the re-registration will be sent to the new owner using the details provided in this section.

Title	Choose a title.
Name of the new owner	Click or tap here to enter text.
Surname of the new owner	Click or tap here to enter text.
Name of contact person for new owner (name and surname) (if other)	Click or tap here to enter text.
Company/ Trading name (if any)	Click or tap here to enter text.
Company Registration Number	Click or tap here to enter text.
Physical address	Click or tap here to enter text.
Postal address	Click or tap here to enter text.
Postal code	Click or tap here to enter text.
Telephone	Click or tap here to enter text.
Cellphone	Click or tap here to enter text.
E-mail	Click or tap here to enter text.

#### DETAILS OF THE DEVELOPMENT AND ASSOCIATED INFRASTRUCTURE REGISTERED

Provide details of the existing registered development	
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A locality map of the existing registered facility must be attached as Appendix 5 of the registration form. The map must include the following:

- the project site;
- the layout of the proposed solar photovoltaic installation facility;
- footprint of the proposed solar photovoltaic facility and any relevant corridor in which the linear infrastructure is to be developed;
- 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;
- a scale bar; and
- the GPS co-ordinates of the original footprint of the solar photovoltaic facility and the routing of the linear infrastructure where relevant, including, amongst others, power lines (strategic points along the power line), substations, storage areas and the access road where relevant; and

- the facilities and/or infrastructure including the GPS co-ordinates of the facilities and/or infrastructure for which a change of ownership is being requested.

**This section must be completed by the existing registration developer in the case of a change of ownership related to a transfer of associated infrastructure**

**DETAILS OF THE INFRASTRUCTURE WHICH IS TO BE TRANSFERRED AND FOR WHICH THE CHANGE OF OWNERSHIP IS TO BE REGISTERED**

Existing Project Name	
New Project Name <sup>20</sup>	
Description of the facility or infrastructure to be transferred	

**LIST OF APPENDICES TO BE POPULATED**

		SUBMITTED	
		YES	NO
APPENDIX 5	Locality map <sup>21</sup>	YES	NO
APPENDIX 6	Declaration of commitment by the proponent/developer to implement the environmental management programme	YES	NO
APPENDIX 7	Declaration of independence by the EAP/ES or environmental specialist	YES	NO
APPENDIX 8	Curriculum vitae of the EAP/ES and specialists	YES	NO
APPENDIX 9	Professional affiliation/registration certification of the EAP/ES and specialists	YES	NO
APPENDIX 10	Final environmental management programme	YES	NO

<sup>20</sup> A new project name can be provided in the case of a change of ownership related to a transfer of associated infrastructure.

<sup>21</sup> In the case of a change of ownership related to a transfer of associated infrastructure.

**APPENDIX 1:  
SCREENING REPORT**

**APPENDIX 2:**  
**EVIDENCE OF CONSULTATION**



**APPENDIX 3:**  
**FINAL SITE SENSITIVITY VERIFICATION REPORT**

**APPENDIX 4:**  
**LANDOWNER CONSENT LETTER, CONFIRMATION OF PRE-NEGOTIATION AND LETTER OF  
CONSENT FROM ESKOM HOLDINGS SOC LTD OR ITS SUCCESSOR**

**APPENDIX 5:  
LOCALITY MAP**

**APPENDIX 6:****DECLARATION OF COMMITMENT BY THE PROPONENT/DEVELOPER TO IMPLEMENT THE ENVIRONMENTAL MANAGEMENT PROGRAMME (EMPr)****NORM FOR THE EXCLUSION OF THE DEVELOPMENT AND EXPANSION OF SOLAR PHOTOVOLTAIC FACILITIES IN AREAS OF LOW OR MEDIUM ENVIRONMENTAL SENSITIVITY**

I, \_\_\_\_\_, hereby declare that:

- I am the proponent/developer in this registration;
- I have appointed an Environmental Assessment Practitioner (EAP) or Environmental Scientist (ES) to act as the independent EAP or ES for the registration/re-registration of a solar PV facility in terms of the *“Norm for the Exclusion of the Development and Expansion of Solar Photovoltaic Facilities in Areas of Low or Medium Environmental Sensitivity”*;
- I have taken all reasonable steps to verify whether the EAP or ES and specialists appointed are independent and have relevant expertise, including knowledge of the Act<sup>22</sup> and any guidelines that have relevance to the proposed activity;
- I have provided the EAP or ES and specialists with access to all information at my disposal that is relevant to the registration;
- I am responsible for implementing the EMPr;
- I am responsible for the costs incurred in complying with the EMPr, including but not limited to –
  - costs incurred in connection with the appointment of the EAP or ES or any person contracted by the EAP or ES;
  - costs incurred in respect of the undertaking of any process required in terms of the EMPr; and
  - costs associated with implementing the avoidance and mitigation measures contained in the EMPr;
- I will perform all obligations as expected from a proponent/developer in terms of the EMPr;
- I have read the completed registration/re-registration form and supporting documents and hereby confirm that the information provided is, to the best of my knowledge, true and correct;
- All the particulars furnished by me in this form are true and correct;
- I have not commenced with the project as described in the registration form and will not commence until a registration number has been received; or<sup>23</sup>
- I have not commenced with development or expansion of any of the activities for which re-registration is required; and
- I am fully aware of my responsibilities in terms of the Act and failure to comply with these requirements may constitute an offence. I am aware of what constitutes an offence in terms of the Notice and that a person convicted of an offence is liable to the penalties as contemplated in section 49A(1)(bA) of the Act.

<sup>22</sup> The National Environmental Management Act, 1998 (Act No. 107 of 1998).

<sup>23</sup> Delete whichever is not applicable.

Proponent/developer (Name and Surname) \_\_\_\_\_

Name of Company (If Applicable) \_\_\_\_\_

Designation \_\_\_\_\_

Signature<sup>24</sup> \_\_\_\_\_

Date \_\_\_\_\_ Place \_\_\_\_\_

Commissioner of Oaths \_\_\_\_\_

Designation \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_ Place \_\_\_\_\_

\_\_\_\_\_  
Commissioner of Oaths Stamp

<sup>24</sup> This registration form must be signed by the proponent/developer.

**APPENDIX 7:****DECLARATION OF INDEPENDENCE BY THE ENVIRONMENTAL ASSESSMENT PRACTITIONER OR ENVIRONMENTAL SCIENTIST AND SPECIALIST****NORM FOR THE EXCLUSION OF THE DEVELOPMENT AND EXPANSION OF SOLAR PHOTOVOLTAIC FACILITIES IN AREAS OF LOW OR MEDIUM ENVIRONMENTAL SENSITIVITY****Declaration of environmental assessment practitioner/environmental scientist (EAP/ES) or specialist<sup>25</sup>**

I, \_\_\_\_\_, declare that –

- I act as the independent EAP or ES or specialist in the registration process in terms of the “*Norm for the Exclusion of the Development and Expansion of Solar Photovoltaic Facilities in Areas of Low or Medium Environmental Sensitivity*”;
- I have expertise in conducting environmental impact assessments and specialist assessments, including knowledge of the Act<sup>26</sup>, the *Norm for the Exclusion of the Development and Expansion of Solar Photovoltaic Facilities in Areas of Low or Medium Environmental Sensitivity*, guidelines that have relevance to the proposed activity and professional knowledge in the relevant environmental theme for which I am the specialist;
- I have complied with the Act, the *Norm for the Exclusion of the Development and Expansion of Solar Photovoltaic Facilities in Areas of Low or Medium Environmental Sensitivity* and all other applicable legislation related to my area of expertise;
- I have performed the work relating to the registration process in terms of the “*Norm for the Exclusion of the Development and Expansion of Solar Photovoltaic Facilities in Areas of Low or Medium Environmental Sensitivity*”, in an objective manner;
- I have taken into account, to the extent possible, the requirements of the *Norm for the Exclusion of the Development and Expansion of Solar Photovoltaic Facilities in Areas of Low or Medium Environmental Sensitivity*, matters listed in regulation 13 of the EIA Regulations, read in the context of the Norm, when fulfilling the site sensitivity requirement, the consultation process and preparing the reports relating to this registration process;
- I have disclosed to the proponent/developer all material information in my possession that reasonably has or may have the potential of influencing this registration process; and the objectivity of any site sensitivity verification, report, plan or document to be prepared by myself to support the registration process, unless access to that information is protected by law, in which case, I have indicated that such information exists and will be provided to the competent authority as part of the registration process; and
- I have performed all obligations as expected from an EAP or ES or specialist in terms of the registration process in terms of the *Norm for the Exclusion of the Development and Expansion of Solar Photovoltaic Facilities in Areas of Low or Medium Environmental Sensitivity*.

**Disclosure of vested interest (delete whichever is not applicable)**

- I do not have any vested interest (either business, financial, personal or other) in the proposed activity proceeding other than remuneration for work performed in terms of the *Norm for the Exclusion of the Development and Expansion of Solar Photovoltaic Facilities in Areas of Low or Medium Environmental Sensitivity*;
- OR
- I have a vested interest in the proposed activity proceeding, such vested interest being:

<sup>25</sup> Delete information which is not applicable throughout the declaration.

<sup>26</sup> The National Environmental Management Act, 1998 (Act No. 107 of 1998)

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Signature of the EAP/ES or specialist  
Name of Company (if applicable)  
Date

**Undertaking under Oath or Affirmation**

I, \_\_\_\_\_, swear under oath / affirm that all the information submitted or to be submitted for the purposes of this registration is true and correct.

Signature of the Environmental Assessment Practitioner or Environmental Scientist or Specialist

Name of Company (if applicable)

Date

Signature of the Commissioner of Oaths

Date

**APPENDIX 8:**  
**CURRICULUM VITAE OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER,  
ENVIRONMENTAL SCIENTIST AND SPECIALIST**



**APPENDIX 9:**

**PROFESSIONAL AFFILIATION/REGISTRATION CERTIFICATE OF THE ENVIRONMENTAL  
ASSESSMENT PRACTITIONER/ENVIRONMENTAL SCIENTIST AND SPECIALIST**

**APPENDIX 10:**  
**FINAL ENVIRONMENTAL MANAGEMENT PROGRAMME (EMPr)**

**Minimum management controls:**

- Environmental awareness training
- Construction site establishment
- Access restricted areas and areas where no development is permitted
- Access roads
- Fencing and gate installations
- Water supply management
- Storm and waste water management
- Solid waste management
- Protection of watercourses and water bodies
- Vegetation clearance
- Protection of fauna and flora
- Protection of heritage resources
- Safety of the public
- Sanitation
- Prevention of diseases
- Emergency procedures
- Hazardous substances management
- Workshop, equipment maintenance and storage
- Batching plants
- Dust emissions
- Noise management
- Visual impact
- Fire prevention
- Stockpiling and stockpile areas
- Finalising solar PV panel areas
- Excavation of foundations, cable trenches and drainage systems
- Installation of foundations, cable trenches and drainage systems
- Installation of equipment
- Social economic benefits and impacts
- Temporary site closure
- Landscaping and rehabilitation



# forestry, fisheries & the environment

Department:  
Forestry, Fisheries and the Environment  
REPUBLIC OF SOUTH AFRICA

THE DEVELOPMENT AND EXPANSION OF SOLAR PHOTOVOLTAIC FACILITIES  
FROM THE REQUIREMENT TO OBTAIN AN ENVIRONMENTAL AUTHORISATION  
BASED ON THE SOLAR EXCLUSION NORM

Public Comment: 14 April 2023

Closing date for comments: 26 May 2023

CIRCULATION:

PUBLIC COMMENT

COMPILED BY:

CHIEF DIRECTORATE: SEI

Disclaimer: Organisations/People whose comments are below were made aware that their names/organisation name will be aligned to their comments and will be included on the Departments website as part of the transparency of the commenting process.

BA – basic assessment

ES – environmental scientist

DFFE – Department of Forestry, Fisheries and the Environment

GHG – greenhouse gas

EA – environmental authorisation

NEMA – the National Environmental Management Act No. 107 of 1998

EAP – environmental assessment practitioner

PV – photovoltaic

EIA Regulations – Environmental Impact Assessment Regulations, 2014

REDZs – renewable energy development zones

EMI – environmental management inspector

SEA - Strategic Environmental Assessment

EMPr – environmental management programme

Screening tool – the national web-based environmental screening tool

## COMMENTS AND RESPONSE REPORT

	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
<b>DEFINITIONS</b>				
1.0	<b>ABO Wind Renewable Energies (Pty) Ltd</b>	corridor – the width of the corridor should be land not exceeding 250m in width” instead of the 200m stated, so as to align with the maximum width of the pre-negotiated route indicated in the “Standard for the Development and Expansion of Power Lines and Substations within Identified Geographical Areas”		The width of the corridor has not been amended as other stakeholders have said that the width is too wide even at 200m.

	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
		Can a corridor be authorised/registered through this registration, rather than a specific overhead line?		
1.1	DEADP	<p>“Corridor” means the belt of land not exceeding 200 metres in width...”</p> <p>Is there a maximum length (in meters or kilometres) proposed for a corridor? Other definitions such as “footprint” and “linear activity” all seem to have relevance to this corridor.</p>	The definition should include a maximum length of the corridor	It is not intended that there should be a maximum length, the length of the power line will be determined by the need. As the corridor is to be verified for environmental sensitivity there is no need to restrict the length.
1.2	Department of Agriculture, Environmental Affairs, Rural Development and Land Reform	Linear infrastructure – proposed definition edit	its characterised by its spatial line format .....	The proposal was not included as the corridor may not be linear but should take the form that avoids environmental sensitivity. The definition is intended to focus on the fact that is the piece of land which is verified and in which the power line will be located once the final siting has been determined.
1.3	GDARD	Environmental Assessment Practitioner.	It may be prudent to add the definition of an ‘environmental assessment practitioner’ since they would operate as part of this Norm in one form or the other.	Environmental Assessment Practitioner is defined in NEMA and the introduction to the definition provision states that all definitions of NEMA apply unless the context indicates otherwise.
1.4	Sasol South Africa Limited	<p>Footprint – means the area on which the solar photovoltaic facility and associated infrastructure, including battery storage, is proposed to be located, but excludes the area on which associated linear infrastructure.</p> <p>There is contradiction of where the exclusion applies in relation to footprint the definition of a footprint excludes linear infrastructure under</p>	Consider referring to “facility” as per the facility definition, but not “footprint”, so as to clearly includes linear infrastructures associated with the solar PV project.	There is an attempt to differentiate between a footprint and the linear infrastructure placed in the corridor, as the footprint may not be in an area of very high or high environmental sensitivity, however the linear infrastructure (i.e. the corridor) will be able to traverse or be located in an

	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
		<p>definition section, whereas section 5 makes mention of exclusion to be that of a footprint, including section 3 which is for linear infrastructure.</p> <p>Section 3 allows linear infrastructures for the realisation of Solar PV project, to be excluded whereas section 5 refers to exclusion been of a footprint (which exclude linear infrastructure). By implication it may mean that the exclusion does not apply to linear infrastructure.</p>		<p>area identified as being very high or high, under certain circumstances. The reference to “footprint” in paragraph 6 has been amended to “facility” as suggested.</p> <p>Both the footprint and the corridor will form part of the exclusion if it meets the criteria of the exclusion.</p> <p>The reference to “footprint” in section 5 has been amended to “facility” as suggested to indicate that it is both the solar PV as well as associated infrastructure including the linear infrastructure as per the definition of “facility”.</p>
1.5	<b>Sasol South Africa Limited</b>	Site Sensitivity Verification – means the confirmation or dispute the environmental sensitivity of the development footprint identified in the screening tool as contemplated in paragraph 4 of this schedule”	Suggest adding “Site Sensitivity Verification” (SSV) to definitions under para. 1:	It is not thought to be necessary to define site sensitivity verification as it is a process that must be undertaken. Paragraph 4 provides the requirements of this verification and is regarded as being sufficiently clear while a definition will not be capable of dealing with all of the requirements of this verification.
1.6	<b>BirdLife SA</b>	Whilst we appreciate that there are consultants who are capable of doing this work, including those that are not registered EAPs, we are concerned about the generic definition of an environmental scientist as "a person registered under the Natural Scientific Professions Act (Act No. 27 of 2003) by the South African Council of Natural Scientific Professions". The bar for such registration is considerably lower		<p>SACNASP has a specific field of study which applies to Environmental Scientist. The professionals are required to demonstrate their expertise in the same manner as for EAPASA.</p> <p>It is not the experience of the DFFE</p>

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		<p>than that set by EAPASA, and without more specific mention of the categories that the individual should be registered for, it is more likely that inexperienced and under-qualified consultants will seek to market themselves as capable of registering solar project sites - a situation that is exacerbated by the above-mentioned absence of discretion accorded to the competent authorities. Our concerns in this regard are detailed in point 2.29 and 2.30 of our previous comments.</p>		<p>that the registration bar for SACNASP professionals is lower than that of EAPASA, having considered the registration requirements.</p> <p>The Environmental Scientist may only do work for which the registration is valid. A person registered under the field of an Environmental Scientist may not undertake the work of a specific specialist, but may undertake the work undertaken by an EAP in the context of this Norm. All other specialists would be required to be registered in the specific field of expertise required by the environmental theme being considered.</p>
1.7	DEA&DP	<p>The Solar PV Exclusion Norm provides definitions for - “environmental scientist” and “specialist” - It is not clear what the difference is in functions being fulfilled by an environmental scientist and an EAP on the one hand, and between an environmental scientist and a specialist on the other hand.</p>	<p>Clearly define the roles of the EAP, environmental scientist and the specialist.</p>	<p>The environmental scientist will be able to do the general environmental work which is also able to be undertaken by the environmental assessment practitioner. The requirements of the relevant paragraphs within the Norm identify which category of specialist is to undertake the work. An EAP/ES will not be able to do the site sensitivity verification.</p>
1.8	DEA&DP	<p>A specialist is defined as a person who is (1) skilled in a specific and restricted field and (2) is registered by the South African Council of Natural Scientific Professions (“SACNASP”)</p>	<p>Clarity to be provided. Surely it must state that the specialist must be skilled in a specific field and registered with SACNASP in that</p>	<p>The definition of “specialist” does indicate that the specialist must be skilled in a specific and restricted field for which they have been registered.</p>

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		under a specific field. It does not require that the person must be skilled in a specific field and registered with SACNASP in that same field. This means that a person who is registered with SACNASP in a specific field, but according to his own estimation is skilled in another field, is a specialist in both fields and can undertake specialist site sensitivity verification in both fields of expertise.	same field. Also, it is suggested to include the opportunity or requirement for specialist review of the information provided.	
1.9	Department of Agriculture, Environmental Affairs, Rural Development and Land Reform	To include “stakeholder consultation” this will be important to prevent any misinterpretation as to the consultation processes and stakeholders to be consulted; and supporting proof needed in support of such actions. This will also clarify the alignment concerns with the NEMA principles i.t.o. I&AP consultation.	Alternatively, the pre-negotiation definition should include provincial environmental sector departments. This will be specifically important for those provinces who will not have the capacity to implement this norm (as would most probably be the case for the Northern Cape, DAERL), but wants to ensure that (where possible within their capacity) they will have the opportunity to comment on the Screening Tool report and the Site Sensitivity Verification Report prior to its submission to DFFE for registration. This is to ensure that the 10 days counting does not include I&AP’s commenting period.	The negotiations to be undertaken to reach agreement on the “pre-negotiated” route is to be undertaken with the landowner specifically as this is to obtain permission to traverse the land of the landowner. General consultation was required but the requirements have now been included specifically in paragraph 5.
<b>SCOPE OF THE EXCLUSION</b>				
2.0	ABO Wind Renewable Energies (Pty) Ltd	Pg 6- 2.1.1 “when developed in areas of “low” or “medium” environmental sensitivity as identified by the screening tool...”	The standards should add that the areas of low and medium environmental sensitivity may also be verified by an independent environmental scientist qualified in the relevant theme.	The Norm does indicate that the site verification must be undertaken by specialists, with demonstrated expertise in the field for which they are undertaking the site sensitivity verification and, where relevant, the taxonomic group of the species being

	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
			This would allow for the aim of the standard to be achieved (namely development outside of high-sensitivity areas) based on verified site conditions, rather than just relying on the National Screening Tool which maps the themes at a higher level. This would also align with the information in section 4.1.	considered.  The Norm does indicate that the site sensitivity verification inspection is undertaken to confirm or dispute that the environmental sensitivity of the footprint and corridor for the linear infrastructure is as identified by the screening tool.
2.1	DEA&DP	The scope of exclusion focuses on environmental sensitivity and further relates to activities identified in Listing Notice 1 and 2, while also including "...and any associated activity identified in Listing Notice 1, 2 or 3 necessary for the realization of such facilities". It is understood that demographic, economic, social, visual, and other developmental impacts can be overlooked as any associated activities identified in the applicable Listing Notice would then also be excluded from the requirement(s) to obtain an EA – i.e. the development footprint size will have little to no restrictions.	Clarity to be provided regarding how a development will be restricted.	The provision of energy generating facilities from renewable resources are generally economically and socially desirable, the social aspects related to safety and security will be dealt with as part of the EMP. Visual aspects would relate mainly to the power line, and the inputs from adjacent landowners will be required. Aspects of cumulative impacts must be discussed as part of the requirement of the Norm.  It is not intended to restrict development where the development will take place on areas of low or medium sensitivity and high or very high for the aerial component of a power line under certain conditions.
2.2	DEA&DP	It is noted that activities relating to the Solar PV facilities that are identified by the National Web Based Environmental Screening Tool, and after site sensitivity verification, as having a "low" or "medium" sensitivity, including for Terrestrial Biodiversity, will be excluded from the requirement to obtain an EA.	It is proposed that the exclusion be changed to only remove the requirement to apply for EA if the National Web Based Environmental Screening Tool identifies the impact as being "low", or that the exclusion not apply if the impact to terrestrial	The animal and plant species themes are included in the verification that is required. Should an animal or plant species theme identify areas of medium environmental sensitivity, these are regarded as providing a potential habitat for species of



	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
		<p>Given the large areas required for Solar PV facilities, it is concerning that a site which is identified as having medium biodiversity sensitivity will automatically be excluded from requiring EA, as it is possible that areas that have medium sensitivity may, after conducting an Environmental Impact Assessment, be found to have medium or higher biodiversity impact, which would then require an offset, as per the draft National Biodiversity Offset Guideline (published for comment on 25 March 2022; see Table 1 in the draft National Biodiversity Offset Guideline). Given the large areas involved in renewable energy developments, it is concerning that development will be allowed in areas identified by the Screening Tool as having medium sensitivity without any assessment of impact, particularly in the Western Cape with its high number of vulnerable, endangered and critically endangered vegetation types.</p> <p>The current approach that medium sensitivity Terrestrial Biodiversity sites should not require EA assumes that development on sites with medium sensitivity will never result in medium or higher impacts. This assumption is flawed.</p>	<p>and aquatic biodiversity specifically is “medium”.</p>	<p>conservation concern and the specialist is therefore required to specifically look for potential species as per the species protocol. The process for considering the environmental sensitivity for species is therefore the same as for other developments to which the species specialist assessment applies.</p> <p>A clause has been added to indicate that a plant species of conservation concern may not be removed and no breeding area of a species of conservation concern can be impacted. Areas within the corridors which must not be developed are also to be identified and mapped. The specialist for each environmental theme will need to confirm that the impacts after mitigation are acceptable, therefore it is not anticipated that an offset would be required.</p>
2.3	<p><b>Department of Agriculture, Environmental Affairs, Rural Development and Land Reform</b></p>	<p>Section 2.1.1 - It is a concern for the Northern Cape that low and medium environmental sensitivity are to be regarded as acceptable losses. This is because the Screening Tool uses grid data for species distributions (SCC) and the Northern Cape is the least surveyed province of all nine provinces, making the</p>	<p>This could potentially be addressed through ensuring that the Provincial Conservation/Environmental department is incorporated into the definition of pre-consultation or through the inclusion of an additional definition for stakeholder</p>	<p>The sensitivity as identified by the screening tool is to be verified by specialists with demonstrated expertise in the relevant theme under consideration.</p> <p>Therefore even if the confidence level</p>

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		<p>confidence in the screening tool very Low. The low and medium impacts have been found to be due to lack of information rather than that it is not Environmentally sensitive.</p> <p>Some vegetation units are under severe developmental pressure, which the Screening Tool does not reflect due it not being a “live” tool that incorporates cumulative impacts into conservation status and presence of species as additional information becomes available. Nor does it incorporate impact studies’ specialist report data where additional Biodiversity information is generated (e.g. where species occur outside known ranges).</p> <p>It has also been found that the spatial layers included in the Screening Tool is not reflective of the protected areas within The Northern Cape province and has caused mining licences being issued that falls within protected areas. Apparently, this is due to the format in which protected areas have been declared and submitted to DFFE, but irrespectively, until this is resolved the Screening Tool has shortcomings in this regard and is causing challenges in the Northern Cape.</p>	<p>consultation to ensure that provincial authorities provide inputs and feedback (are consulted).</p>	<p>of the information contained in the screening tool is low, specialists are required to verify the sensitivity.</p> <p>A review of the solar PV facilities authorised by the DFFE have indicated that solar PV facilities are generally developed in farming areas where there would be limited competing developments. Cumulative impacts are also to be discussed by the various specialists.</p> <p>The information on the screening tool is updated regularly and in the case of aquatic biodiversity the layer was updated on 2 May 2023, for animal species the theme was updated on 11 May 2022 and for terrestrial biodiversity the theme was updated on 2 May 2023. The plant species theme is currently being updated and will be uploaded towards December 2023.</p> <p>The protected areas are updated by the DFFE as the data custodian on a quarterly basis and the information is also updated on the screening tool at the same interval. If there are errors with respect to boundaries of protected areas in the Northern Cape, these must be corrected.</p>

	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
2.4	Department of Agriculture, Environmental Affairs, Rural Development and Land Reform	Section 3.2 – this section is not clear. Does it mean that if the BESS (battery storage facility) is developed as an standard alone development it does not fall under this Norm for solar, but rather the Norm for BESS? It might cause confusion As to when which norm applies?		Should a BESS be developed with the solar PV facility, this would be included as associated infrastructure. Paragraph 3.2 says exactly that, where the BESS is integral to the solar PV it is to be considered under this exclusion and not the stand alone BESS exclusion.
2.5	CSIR	<p>The addition suggested above will make clear that site sensitivity verification is mandatory to confirm the “on-the-ground” sensitivity regardless of starting sensitivity in terms of the screening tool, otherwise it may be misinterpreted as the exclusion only and automatically applying in areas currently identified as low / medium in the screening tool off the bat.</p> <p>Remove repetition of “as identified by the screening tool” at the end of the sentence.</p>	<p>Suggest rewording para. 2.1.1 to:2.1.1.2  “when developed in areas of “low’ or “medium” environmental sensitivity as identified by the screening tool and site sensitivity verification for the following environmental themes as identified by the screening tool”</p> <p>The list of environmental themes which apply; ‘animal species’ should be updated to ‘species’ as the species protocol will be updated to include aquatic and terrestrial animal species.</p>	<p>Wording has been included in 2.1.2 indicating that site sensitivity verification is required as suggested.</p> <p>The two species protocols were amended to remove the word “terrestrial” to allow them to apply equally to aquatic and terrestrial species. The amendment has been made to the protocol and the plant and animal species themes do not include the word “terrestrial”.</p>
2.6	Mr M Theart	Given that developments or extensions subject to the exclusion and norm may include natural or near-natural areas, it is not inconceivable that they could result in a significant residual impact on the biodiversity, which impact type must be offset. In terms of the National Biodiversity Offset Guideline, an impact left over when all efforts had been made to avoid	I therefore propose that a proponent is required through the norm to offset any significant residual biodiversity impact. The requirement to offset would have to be contained in the environmental management programme (EMPr) since no environmental authorisation would	<p>Offsets are required when the environment is sensitive and impacts on it cannot be avoided. The Norm should not apply in such instances.</p> <p>The specialist is to declare that the impact would be acceptable after mitigation, it is therefore not</p>

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		<p>and minimise an impact, and to rehabilitate disturbed areas, the impact must be offset if the impact significance is medium to high.</p>	<p>be required. That requirement would have to specify, at the very least, the biodiversity outcomes that must be achieved through the offset, including the biodiversity offset ratio, as well as the requirement to select and secure an appropriate biodiversity offset site and to enter into a biodiversity offset agreement with an appropriate implementer. Alternatively, but only where available, the proponent could be required to buy credits in an appropriate proactive biodiversity offset mechanism.</p>	<p>anticipated that offsets would be triggered through this exclusion.</p>
2.7	CER	<p>We reiterate our initial stance on the exclusion of activities from the requirement to obtain an environmental authorisation regardless of the sensitivity of the area with the consideration that this encourages the disregarding of potentially far-reaching project-specific impacts whilst removing crucial accountability mechanisms under the environmental management regime envisaged by NEMA.</p> <p>A concerning change in the scope of exclusion of the current norm are the generalised themes to be considered in “low” or “medium” sensitivity areas by the screening tool as they appear to be more general in addition to there being less themes identified compared to the previous exclusion’s themes. Missing from the themes to be considered are cultural heritage, palaeontology resources, civil aviation and defence. These omissions are to be considered</p>		<p>NEMA makes provision for exclusions, the DFFE has spent enormous energy and resources on developing the screening tool which is updated with information as that information becomes available from the data custodians. In addition, the site sensitivity is to be verified by specialists with demonstrable expertise in the theme that they are considering. It is therefore thought that exclusions for certain projects based on a registration process can be allowed under limited circumstances as provided for in the Norm.</p> <p>Impacts related to cultural heritage and civil aviation will be assessed</p>

	<b>STAKEHOLDER</b>	<b>COMMENT</b>	<b>RECOMMENDATION</b>	<b>RESPONSE</b>
		in conjunction with our points in our preliminary submission on the absence of the climate change and hydrology aspects. Again, these themes are of great significance as solar PV development may likely happen in areas that are water scarce or contain wetlands, and because it is essential to consider how the project and surrounding area may be affected by climate change for the duration of the project.		under the specific applicable legislation.  Solar PV facilities do not in themselves contribute to GHGs, and the impacts associated with climate change are not project specific but rather will be regional impacts and would affect all economic developments in the region equally. These are not impacts that can be mitigated on a site by site level but should be regionally considered and addressed.
<b>2.8</b>	<b>BirdLife SA</b>	The Schedule is titled "Norm for the exclusion of the development and expansion of solar photovoltaic facilities in areas of low or medium sensitivity". This title implies de facto existence of areas of medium sensitivity, whereas (and as explained in paras 2.7 - 2.11 of our comments on the previous Notice) the term "medium" (in the context of the animal and plant species themes) is effectively a stop-gap allocation, indicative of a lack of knowledge about certain species, pending further data collection and confirmation of actual sensitivities. Furthermore, as indicated in the detail of the Schedule, there are instances where areas of high to very high sensitivity are not automatically excluded in respect of the associated infrastructure.	We would, therefore, recommend a more generic title that refers to "certain areas" rather than "areas of low or medium environmental sensitivity".	The areas to which this exclusion apply use as their starting point areas of low and medium environmental sensitivity if these areas have been confirmed to be such by specialists. Other sensitivities can be applied under certain conditions and situations.  As the site sensitivity verification is required it is noted that there is no de facto sensitivity. The change of the title will not change the content or requirements.
<b>ACTIVITIES</b>				
<b>3.0</b>	<b>CSIR</b>	The Standard for the Development and Expansion of Transmission and Distribution	Para. 3.1 footnote 1 - suggest editing footnote 1 to make clear that	The footnote has been amended to clarify that the EGI infrastructure

	<b>STAKEHOLDER</b>	<b>COMMENT</b>	<b>RECOMMENDATION</b>	<b>RESPONSE</b>
		Power Lines and Sub-stations does not apply to a power line associated with for the purpose of evacuating electricity generated by a proposed solar photovoltaic facility falling in the scope of this Norm, as the requirements of this Norm will be applicable in such an instance.	the Electricity Grid Infrastructure Standard does not apply to powerlines associated with the evacuation of electricity from a solar PV facility.	associated with the Solar PV facility is to be included in the Solar PV exclusion norm and not the standard for EGI.
<b>3.1</b>	<b>GDARD</b>	Enhanced clarity.	To avoid potential confusion, the activities identified for the development of battery storage facilities may be identified as those linked in-situ to the development of solar photovoltaic technology as per the expansion triggers of this Norm.	There are no specific activities related to battery storage, however all possible activities associated with such a development are included in the activities.
<b>3.2</b>	<b>Mr M Theart</b>	Identifying modified areas - I support the requirement in the proposed norm for a specialist to prepare a site sensitivity verification report, which is required to contain, among other things, a physical inspection report and available finer scale data on species or biodiversity in the area.	However, I propose that the site sensitivity verification report should also include a description of how the mitigation hierarchy has been applied. The description should include an identification of the modified areas in the greater area. If those areas are not selected as the proposed development or extension site, the EAP or specialist should be required to give a reasoned motivation why a natural or near-natural area had been selected.	The areas associated with this norm are required to be medium or low environmental sensitivity, this therefore avoids areas of high or very high sensitivity. Where linear infrastructure is required to traverse areas of very high or high environmental sensitivity the Norm requires that the specialists and EAP/ES indicate how the mitigation hierarchy has been applied and must be discussed in the site sensitivity verification report.
<b>3.3</b>	<b>CER</b>	The listing notice activities provided for above pertain to activities that are considered to be likely to have significant impacts on the environment, hence their placement on a list of activities that requires environmental authorisation.	We reiterate the submission we made in our preliminary comments on the exclusion of Solar PV, that to negate the requirement that an EIA be undertaken creates potential for environmental harm that may have otherwise been avoided through an EIA process.	NEMA makes provision for the exclusion of activities identified in the Listing Notices. The framework for environmental management has changed over the years, we have more tools at our disposal and we have many years of experience in the understanding of the impacts of solar PV facilities, the energy policy also

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				calls for expansion of this technology.  EIAs do not necessarily always result in no environmental harm and also move from the premise of the mitigation hierarchy being implemented.
3.4	CER	The norm continues to provide for the exclusion of any activities associated with Listing Notice 1, 2 or 3, which we further stress as being a problematic provision that must be deleted as it opens the door too wide for additional activities to proceed without EIA or environmental authorisation and risks abuse and uncertainty in the application of the exclusion.	If the associated activity is a listed activity under NEMA, then an EIA is required. If it is to remain then, at the very least, these 'associated activities' must be defined and clearly delineated.	The activities are all related to realising the solar PV facility, the activities associated with this exclusions are therefore ringfenced. The Norm does require that the associated activities are delineated on a plan overlaid on the environmental sensitivity of the site. Only the linear infrastructure would be considered to be developed in areas of high or very high sensitivity, and only under certain circumstances.
3.5	CER	We support the provision for site sensitivity verification in this clause.		The support is noted.
3.6	CER	Worryingly absent from the listed themes in this clause are: <ul style="list-style-type: none"> <li>• Hydrology - particularly as solar PV development may likely often happen in water scarce areas – and wetlands; and</li> <li>• Climate impacts – not necessarily greenhouse gas emissions (although lifecycle emissions should be considered), but it is important that consideration be given to how the project and surrounding area</li> </ul>	The above themes should, at the very least, be added to 3.1.1 and 3.1.2.	Detailed hydrology studies are undertaken through the requirement of the water use licence that is required by the National Water Act. There is no need to duplicate requirements, the aspects of stormwater runoff, erosion and siltation are dealt with through the requirements of the EMPr through construction phase and through general environmental management requirements through the operational phase of the facility.

	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
		might be affected by climate change for the duration of the project.		
3.7	CER	The listing notice activities provided for above pertain to activities that are considered to be likely to have significant impacts on the environment, hence their placement on a list of activities that requires environmental authorisation.	To negate the requirement that an EIA be undertaken creates potential for environmental harm that may have otherwise been avoided through an EIA process	NEMA makes provision for the listing of activities but also for the exclusion of activities. Every proposed exclusion is limited to aspects that are regarded as being of minimal (if any) environmental harm with the application of the mitigation hierarchy referenced as a requirement to be complied with. EIAs do not necessarily always result in no environmental harm and also move from the premise of the mitigation hierarchy being implemented.
3.8	CER	It opens the door too wide for additional activities to proceed without EIA or environmental authorisation and risks abuse and uncertainty in the application of the exclusion. If the associated activity is a listed activity under NEMA, then an EIA is required.	The provision in 4.1 extending the exclusion to: " <i>any associated activity identified in Listing Notice 1,2 or 3 necessary for the realisation of such facilities</i> " is hugely problematic and must be deleted  If it is to remain then, at the very least, these 'associated activities' must be defined and clearly delineated.	The associated activities are to be integral to the operation of the solar PV facility, and are therefore ringfenced.
3.9	BirdLife SA	The introduction to the Notice refers to excluding certain activities from environmental authorisation whilst still "meeting the objectives of the Act" - the Act being referred to here is the National Environmental Management Act 107 of 1998 (NEMA). Whilst the introduction of a Norm or Standard is consistent with section 24 of NEMA, we are concerned about		



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		<p>contradictions with the principles in the Act, particularly the need for government to adopt a risk-averse and cautious approach, which takes into account the limits of current knowledge about the consequences of decisions and actions; and that such decisions are taken in an open and transparent manner. Given the onus on the competent authority to register any and all completed applications, the proposed approach places considerable trust in the competence and integrity of EAPs or environmental scientists - an assumption which we believe is problematic.</p>		<p>The geographical areas in which the Norm applies have been identified as being of low or medium environmental sensitivity based on environmental information collected over decades by SANBI based on provincial studies, models and specialist assessment information and consolidated into the environmental web based screening tool. This work and information provides for a risk-averse process which is then to be further de-risked through the on-site investigation by specialists in the field.</p> <p>EAP/ES's are professionally registered and must operate in line with their respective codes of conduct and best practice which further de-risks projects.</p>
<b>SITE SENSITIVITY VERIFICATION</b>				
4.0	CSIR	<p>The addition of 4.7 is confusing, is the assumption not that the exclusion and norm can only apply if a site sensitivity verification has been undertaken and the sensitivity is confirmed as low / medium?</p> <p>Scenario: during the SSV of an area identified as low sensitivity for plant species in the screening tool, a species of conservation concern may be recorded, in which case the sensitivity is disputed (from low to high) and the exclusion will not apply. On the other hand, during the SSV of an area identified as high</p>	<p>Update para. 4.7 to include footnote 2:  <i>“For the plant and animal species themes, the relevant specialists must confirm the presence, likely presence or absence of a species of conservation concern within the <b>footprint in accordance with the species environmental assessment guidelines.</b>”</i></p>	<p>This amendment has been included in a footnote.</p>

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		sensitivity for plant species in the screening tool, no SCCs are recorded and there is high confidence that none would be present, in which case the sensitivity is disputed (from high to low) and the exclusion may apply.		
4.1	CSIR	Suggest adding another para.:  “Site sensitivity verification undertaken for the environmental themes contemplated under paragraph 4.3 should be undertaken by a qualified specialist as input to the site sensitivity report written by the environmental assessment practitioner or environmental scientist”		The need for a qualified specialist to undertake the site sensitivity verification inspection is included in paragraph 4.5.3, it is therefore not thought necessary to duplicate the requirement.
4.2	Department of Agriculture, Environmental Affairs, Rural Development and Land Reform	An overall concern is that a one-day visit would not be sufficient for noting the presence or absence of many fauna. A further concern is the role habitats play in supporting species preference to an area to breed. Thus, although the footprint area does not fall within a breeding site, it might fall within the supporting habitat providing favourable conditions for a species to breed within its vicinity. Similarly, providing supportive habitat that prevent erosion expansion into high sensitivity areas (edge effects of impacts) or limiting sand blasting from high wind speeds (like along the west coast and Richtersveld of the Northern Cape) changing the supporting habitat. E.g., due to mining in the Richtersveld and along the Lower Gariep Alluvial vegetation, sand/dunes have expanded into dwarf succulent veld causing habitat transformation.		It is not intended that the inspection would only have a duration of one day. Wording has been included to indicate that the timeframe should be related to the sensitivity of the site and the size of the facility.  The species layers have been prepared considering breeding and habitats. These areas have been modelled based on specific environmental information collected over several years. There is also a requirement to include the season in which the study was undertaken and the relevance of the season to the presence of the species.
4.3	Department of Agriculture, Environmental Affairs,	Section 4.4 – proposed edit: that “.....which must be supplemented with data, if data is available, from provincial Departments		A section has been included which sets minimum consultation requirements. Evidence of

	<b>STAKEHOLDER</b>	<b>COMMENT</b>	<b>RECOMMENDATION</b>	<b>RESPONSE</b>
	<b>Rural Development and Land Reform</b>	<p>responsible.....” If developers are forced to consult provincial conservation authorities (where DFFE would be the competent authority) proof should be provided i.t.o. whether they have been consulted and whether they had additional data that has to be included and considered into the sensitivity verification report of the developer.</p> <p>This links to the definitions section as to the provision of proof that the relevant stakeholders have been consulted and whether they support the project or not.</p>		consultation must be provided as Appendix 2. There is also a requirement to discuss how the inputs received were considered in the documents to be submitted for registration process.
4.4	<b>Department of Agriculture, Environmental Affairs, Rural Development and Land Reform</b>	Section 4.5 – proposed edit: “.....this information is to be identified and referenced in the site sensitivity verification Report.”	<p>Where literature and other written documentation has been used, the referencing would be important in addition to just identifying where such additional information was included.</p> <p>Through references the source information can be Scrutinised.</p>	A requirement to reference any additional information used in the site sensitivity verification process has been added as suggested.
4.5	<b>Department of Agriculture, Environmental Affairs, Rural Development and Land Reform</b>	Section 4.7 & 4.8 – Note that the species of concern are only plant species listed under the Red list (and not NCNCA Protected species) for which SANBI is the custodian. There are large gaps in grid data for biodiversity in the Northern Cape, especially for animal species of concern (e.g. smaller animal, reptiles, insect etc.) with the most recent Red list being the 2020 version. The Northern Cape has received reports this year that farmers have removed vulture / raptor nests from their properties to ensure that wind farm developments can go ahead. We also had a case where protected trees containing	<p>Some action is needed going forward to update under-sampled grid data that feed into the Red list data and species conservation status according to IUCN protocols.</p> <p>These sections could potentially be very risky and a potential loophole where landowners/developers remove species of conservation concern to avoid following the environmental authorisation route.</p>	<p>SANBI has provided the data for both the plant and animal species layers. The screening tool therefore houses the most up to date SANBI data.</p> <p>The process used to verify the plant and animals species for a medium environmental sensitivity requires that the specialist look specifically for species of conservation concern.</p> <p>It is illegal to remove nests without a conservation permit, if farmers are</p>

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		Critically Endangered Vulture nests were cut down to allow for developments to go ahead.		intending to remove nests to make their sites more attractive this will be the case no matter if we have an exclusion based on site verification or the requirement for an environmental authorisation, which is the current requirement and under which circumstance the nest have allegedly been removed. Enforcement action would be the only deterrent to such behaviour.
4.6	DEA&DP	<p>The site verification allows for the categories of “very high” and “high” to be bumped down to “medium” and “low”. If the reason for this provision is to address inaccuracies on the map, it should also be possible to bump up from “medium” and “low” to “high” and “very high”.</p> <p>Where specialists “bump down” the “very high” / “high” sensitivity to “medium” / “low”, the Competent Authority must verify this. A Competent Authority should not be outsourcing a decision like this (with no ability to contest). Who will the public hold accountable?</p>	<p>Suggest explicitly also including the potential to “bump up” in site verification.</p> <p>Furthermore, it is suggested that the Competent Authority be provided with the opportunity to review the “bumping down” proposed by the specialist.</p>	<p>The need to verify the low or medium environmental sensitivity is the objective of the site sensitivity verification. It is necessary to confirm or dispute the sensitivity identified on the screening tool, therefore if the specialist was confirming a low or medium and it was not confirmed it would be high or very high in which case the exclusion would not apply.</p> <p>A paragraph has been included related to consultation.</p>
4.7	DEA&DP	<p>This paragraph provides that “should a species of conservation concern be found on the footprint or have been confirmed to be likely present, this exclusion will not apply and an application for an environmental authorisation must be submitted.”</p> <p>How will this be verified in the event that it is indicated that no species of conservation concern can be found, or is likely present?</p>		<p>If no species of conservation concern could be found on the site after the inspection by the relevant specialists, the medium environmental sensitivity will be confirmed and the exclusion would apply. The relevant specialist will have to indicate his/her findings in this respect.</p>

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<b>4.8</b>	<b>DEA&amp;DP</b>	This paragraph provides that "...the verification includes a buffer around the footprint to allow for slight adjustments...".  How will a suitable buffer be determined?		The buffer is to allow for slight adjustments of the layout of the facility as indicated in the relevant section. It would be at the discretion of the proponent to identify the relevant size of the buffer.
<b>4.9</b>	<b>GDARD</b>	New information generated.	It is suggested that any new information be mapped in a format that can be incorporated into the screening tool, thereby continuously updating it.	All new information on species is to be captured on the iNaturalist website. The information on the website is reviewed by SANBI as one of the sources for their periodic updates of the data for which they are the custodian. Specialists have also been directed to this website as part of the additional information that should be considered through the site sensitivity verification process.
<b>4.10</b>	<b>GDARD</b>	Edge effects (i.e., protection of threatened plant species populations).	Potentially the development may lead to altering of the microclimate, meaning that edge effects can physically degrade habitat, endanger resident biota, and reduce the functional size of remnant fragments. This means that the specialist may have to apply appropriate buffers for red data plant species to filter out edge effects if necessary	The area for the main activity which is the solar PV facility would be located on land for which the environmental sensitivity has been confirmed to be of low or medium environmental sensitivity. The aspects of edge effects is therefore very low. The corridor for linear infrastructure may contain red data plants, however they will not be allowed to be removed and the specialist would need to include mitigation measures to indicate that the impact on the red data plant species after mitigation (which would be among other a buffer) would be acceptable.
<b>4.11</b>	<b>Department of Agriculture,</b>	Section 4.10 – The cumulative impact assessment needs to be more specific i.t.o.	Propose a spatial extent for considering cumulative impacts	The location of all solar PV facilities within a 30km radius are identified on

	<b>STAKEHOLDER</b>	<b>COMMENT</b>	<b>RECOMMENDATION</b>	<b>RESPONSE</b>
	<b>Environmental Affairs, Rural Development and Land Reform</b>	spatial extent to be considered and more guidance is needed. As it stands, some developers omit future phases of their own development in assessments (e.g. PV 1, PV2, etc... P12) and specialists are using different cumulative maps. E.g., the latest land cover data is not being used to show other types of developments in the landscape such as mining, prospecting, agricultural pivot expansion etc., thus not all surrounding impacts are taken into consideration.	must at least be a 50km radius.	the screening tool and will be identified in the screening report. It would therefore be necessary for the specialist to discuss the implications.
<b>4.12</b>	<b>DEA&amp;DP</b>	<p>Issues like cumulative impacts are notoriously difficult to address in project specific assessments and this would similarly apply (or even more so) in a “registration” scenario. Issues like ecological corridors are equally difficult to scientifically determine and the width of a corridor is often the opinion of a specialist, and other specialists may have a different opinion. The width of a corridor cannot be scientifically proven or verified. In this regard the precautionary approach should apply. How would such a matter be considered and taken forward? It is assumed that it would/ should be included in the EMPR. If not, what recourse is there?</p> <p>Also, footnote 4 is not clear. Does the generic EMPR apply or not? Must the generic EMPR be amended to include the Solar PV Facility?</p>	Include authority review of information submitted (in terms of adequacy and accuracy) and EMPr.	<p>Cumulative aspects must be considered in the site sensitivity verification report, ecological corridors are also to be discussed. The specialists work as a team with the EAP/ES so they will consult with each other and the EAP/ES will ensure that the information provided is of a good quality. It is not intended that there is an authority review as the objective of an exclusion is to exclude the activity from the requirement to obtain an environmental authorisation and therefore an authority review.</p> <p>There has been a paragraph included which sets a minimum requirement for consultation.</p> <p>The EMPr will include mitigation measures, the need for areas within the corridor to be avoided to protect environmentally sensitive areas has been identified in the Norm.</p>

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				The footnote has been corrected, it is not intended that the generic EMPr applies.
4.13	<b>Department of Agriculture, Environmental Affairs, Rural Development and Land Reform</b>	Gap identified: Consultation on the EMPr.	The EMPr must also be consulted and reviewed during the consultation period and supporting proof of Such must be provided; i.e. prior to Registration submission. The consultation of the EMPr is not included in this Norm and must be included.	The new paragraph 5 dealing with the minimum requirement for consultation now identifies that the draft EMPr must be made available for the consideration of affected parties.
4.14	<b>Johann Lanz</b>	Paragraph 4 - site sensitivity verification. For the agricultural theme I would submit that a site sensitivity inspection is not required under certain circumstances, the most obvious of which is: If the limiting factor for the land capability of the site is climatic lack of moisture (aridity), as it is across a large proportion of the country. Currently as it stands, the exclusion would require the entirely pointless exercise of an agricultural specialist traveling to sites in the most arid parts of the country, for example the extreme Northern Cape, to do a site inspection to confirm that the climate is too arid for rain-fed crop production. That is not sensible.	I would submit that an agricultural specialist should rather be allowed to make an assessment of whether they need to do a site inspection or not in order to reliably assess the agricultural production potential of the site, and hence verify its agricultural sensitivity. Note that agricultural sensitivity is a direct function of agricultural production potential. Areas with insufficient land capability for viable and sustainable rain-fed crop production are classified as low or medium sensitivity. Areas that are suitable for viable and sustainable rain-fed crop production are classified as high or very high agricultural sensitivity. Areas where viable and sustainable production of permanent crops (often under irrigation) or other crops under	The point made is understood and supported as the land capability for all areas of the country has been determined. However, noting many of the comments that have been submitted in relation to this Norm reflect that many in the environmental field feel that an exclusion is a step too far and are not ready to embrace a process which is not reviewed and approved by the competent authority. Therefore, it will be necessary to ensure that the environmental sensitivity of all themes that are identified as being of concern to the activities associated with solar PV facilities are confirmed through specialist inspection.

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			<p>irrigation is taking place are classified as very high sensitivity.</p> <p>What I am saying is that it is often not necessary to do a site inspection to verify that a site is of less than high agricultural sensitivity. This is the case in arid areas or any other area that is agriculturally limited by some obvious factor, such as by being in the middle of a city. So the agricultural specialist should be allowed to assess that a site inspection is not necessary in order to reliably verify agricultural sensitivity, and then would be required to substantiate why that is the case, in the site sensitivity verification report.</p>	<p>The comment and concern is noted and understood, however, a conservative and risk averse approach is followed for the the exclusion process.</p>
4.15	Department of Agriculture, Environmental Affairs, Rural Development and Land Reform	Section 4.9 – Why giving the developer the option to include a buffer area?	<p>It is suggested that a buffer must be included and the buffer should be stipulated in this section. Propose a buffer of at Least 500m for arid regions as ecological function is facilitated over larger areas than in more mesic areas.</p>	<p>The purpose of the buffer is to ensure that there is space for slight amendments to the footprint of the facility, the entire footprint and buffer must have been subjected to the site sensitivity verification. The proponent is therefore in the best position to decide on the size of the buffer as they understand their level of readiness and therefore the need to make adjustments.</p>
4.16	Minerals Council South Africa	Site Sensitivity Verification	<p>It is proposed that a site sensitivity verification inspection must be a physical inspection which might be supplemented by utilising any desk top information available, including</p>	



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			<p>any fine scale data available from the provincial department responsible for the environment or the relevant local municipality, where available to confirm that the environmental sensitivity of the development footprint is as identified by the screening tool.</p> <p>The environmental sensitivity rating of the screening tool is already based on desk top information. Using desk top information again will be like a repeat of using the screen tool information if regularly updated. Important to note is that ground truthing should therefore be done more often to update the sensitivity maps over time.</p> <p>The notices advise that, “when undertaking the site sensitivity verification, that verification includes a buffer around the proposed development footprint, to allow for slight adjustments without the need to resubmit the request for registration contemplated in this Norm, which buffer must be clearly indicated and must envelope the footprint”. No guidance is provided on the minimum and maximum buffer that is required for different environmental themes. Of major concern is that the “Buffer” is not</p>	<p>The information on the screening tool is not based on desk top information. The data on the screening tool is gathered from various sources depending on which theme is considered, for example;</p> <ul style="list-style-type: none"> <li>• the agricultural layer is based on a programme of soil sampling, aerial flights and land, and land cover assessment</li> <li>• the plant and animal species layer is based on actual findings of plants and habitat modelling among others etc.</li> </ul> <p>The Norm requires the site sensitivity as identified by the screening tool to be verified by a physical inspection, so ground truthing is required through the Norm.</p> <p>The purpose of the buffer is to ensure that there is space for slight amendments to the proposed footprint of the facility. It is not</p>

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			specified or defined in this context which might cause challenges in the future for proponents because different "Buffers" might be required for different environmental themes. Although the intention behind the buffer is supported it is requested that the department clearly defines term and the required buffers for the themes instead of leaving it to the EAP to remove ambiguities and to ensure a clear understanding of the term.	intended that the width of the buffer will be specified as the proponent would be in the best position to decide on the size of the buffer as they understand their level of readiness and therefore the need to make adjustments. The buffer should be the same for each theme as it is to allow for slight deviation of location of the footprint.  A definition is not deemed to be necessary as this is a common term and it is a voluntary measure at the discretion of the proponent. The buffer, if any, is subjected to the site sensitivity verification requirements.
4.17	CER	We note that the disputing of the environmental sensitivity by a specialist is only provided for should there be a rating of "very high" or "high" environmental sensitivity, which excludes the option for a specialist to dispute the environmental sensitivity rating of "medium" or "low".	Provision should be made allowing for the questioning of "low" or "medium" readings according to the screening tool as disregarding this puts a great sense of trust on the reading of the screening tool for the "low" or "medium" sensitivity areas which may be to the detriment of the environment should the readings be incorrect.	The Norm has been identified to be applicable to areas of low or medium environmental sensitivity for a number of environmental themes. The site sensitivity verification is required to verify (i.e. confirm or not) the low or medium sensitivity as identified by the screening tool, therefore if it is not confirmed to be low or medium it is high or very high. There would be no need to identify that it could be identified as high or very high, this is the objective of site sensitivity verification.
4.18	CER	We note the themes whereby the site sensitivity verification must be undertaken, but also notice that some of themes that were included in the initial exclusion notice are absent from this list,		Heritage assessments will be required through the National Heritage Resources Act. It was removed from the list of themes as

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		<p>such as cultural heritage and palaeontology resources. In addition to this, we maintain the point made in our previous submission concerning the absence of climate change and hydrology from the themes identified for the site sensitivity verification and emphasise the need to amend the provision to include this.</p>		<p>this theme is not managed under NEMA and the Norm themes falling under the jurisdiction of NEMA.</p> <p>Solar PV as a technology does not contribute to GHG emissions. In addition climate change does not represent a site specific impact and mitigation measures can also not be applied on a site by site basis other than to ensure that there is good site management and resilience is designed into the infrastructure.</p> <p>Hydrology information will be provided to support the water use licence application as managed in terms of the National Water Act. Stormwater management is covered in and managed through the EMPr.</p>
4.19	CER	<p>By way of reiterating our points made in the previous submission, climate change is a current phenomenon that is projected to intensify, thus all activities affecting the environment should be verified for their impact on climate change – as well as the ways in which climate change will impact the proposed activities. Regardless of the fact that solar PV constitutes clean energy with lower impacts than other energy sources, the failure to include climate change professionals as verifiers for such a sensitive and impactful environmental problem, is a significant oversight. Additionally, due consideration should be given to the fact that some of the installations or expansions</p>	<p>In order to ensure the thoroughness of the inspection and to avoid any and all errors of the screening tool, consideration of all available data relevant to the site should be utilised to supplement the physical investigation.</p>	<p>The Norm does require the relevant specialists to obtain and consider all other relevant available information from a number of different institutions to supplement the physical investigation.</p> <p>Climate change mitigation and adaptation measures must be designed at a strategic level and implemented at a site specific level through management and mitigation measures. Management measures</p>

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		<p>may be conducted in areas prone to droughts or wetland habitats, in which case the expertise of a professional in hydrology would be essential for verification purposes.</p> <p>We agree with the site sensitivity verification being conducted physically but question the discretion created (created by the word "may") regarding reference to desk top information and fine scale data</p> <p>We support the recognition of animal and plant species of conservation concern that may be found on the footprint; however, regardless of the status of the animal and plant species, the impacts of the projects should always be measured considerably by means of a thorough assessment, hence the necessity of an environmental impact assessment to be conducted.</p>		<p>are included in the EMPr which is required as part of this Norm.</p> <p>Hydrology is comprehensively assessed through the requirements of the water use license, there is no need to duplicate the requirements in this registration process.</p> <p>The "may" has been amended to must, so the specialist must support the inspection with other relevant information.</p> <p>The identification of species is undertaken through site inspection in any assessment. In the case of the Norm, an assessment is not intended to be undertaken as the solar PV installation and the associated infrastructure other than the linear infrastructure is required to be located on areas of low or medium environmental sensitivity. For the linear infrastructure certain conditions apply.</p>
4.20	BirdLife SA	<p>Given that heritage is not listed as one of the Screening Tool themes to which the Norm applies, we assume that the normal EIA process would apply to any site where potentially significant heritage features may be negatively affected.</p>		<p>An assessment in terms of the National Heritage Resources Act would be required.</p>

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4.21	<b>BirdLife SA</b>	As regards the definition of "corridor" in section 1 of the Schedule, the specified width of 200m is important, particularly given that development in these corridors may be permitted even if the Screening Tool identifies a high or very high sensitivity rating. In this regard, careful consideration ought to be given to defining the width so specifically.	We would recommend that there is a reminder of this definition in the content of the Schedule itself so that environmental scientists and EAPs are aware that infrastructural corridors and servitudes may not exceed the specified width.	The width has been retained at 200m however the actual servitude which will be cleared and in which the linear infrastructure will be erected will only be approximately 50m which is the width required for a power line, and less for a road, probably not more than 5m.
4.22	<b>BirdLife SA</b>	Whilst the term linear infrastructure is well-understood, the specific reference to "its straight form" in the definitions in section 1, is inconsistent with the requirement in the Schedule itself for infrastructure to be routed and laid out in a way that avoids areas that are confirmed to be high or very high regards their sensitivity. A "straight" access road is not desirable in many instances, and the direction of power lines should also deviate from a linear trajectory if necessary to avoid impacting on sensitive areas.	We consequently recommend that the definition be edited accordingly.	The definition has been amended to allow for some deviation from a straight line.
4.23	<b>CER</b>	<p>We support the provision for site sensitivity verification in this clause.</p> <p>While we note the attention of the notice to the assessment of the sensitivity of the environment, there is no provision for consideration of cumulative impacts at site and the development footprint – for example, in instances where multiple PV and/or other projects are proposed in the same area. We suggest that the notice makes express provision for the consideration of cumulative impacts on the proposed site as part of the verification process.</p>	This should be amended	The specialists must consider and discuss cumulative impacts and also indicate the ability to mitigate such impacts in the site sensitivity report in order to comply with the Norm.

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		We further note that the site sensitivity verification accommodates verification by professionals in the areas of terrestrial biodiversity inclusive of fauna, avifauna and habitat, aquatic biodiversity, agriculture, cultural heritage, and palaeontology resources. As above in relation to clause 3, the areas of climate change and hydrology are notably absent as no professionals specialising in these areas have been included at 5.2.2.		Climate change mitigation and adaptation measures must be designed at a strategic level and implemented at the site level through management and mitigation measures which are included in the EMPr.
4.24	CER	As a point of reminding the Department of the necessity of these two areas, climate change is a phenomenon currently at play, thus all activities affecting the environment should be verified for their impact on climate change – as well as the ways in which climate change will impact the proposed activities. Regardless of the fact that solar PV constitutes clean energy with lower impacts than other energy sources, the failure to include professionals in climate change as verifiers for such a sensitive environmental problem, is a significant oversight.	Additionally, due consideration should be given to the fact that some of the installations or expansions may be conducted in areas prone to droughts or wetland habitats, in which case the expertise of a professional in hydrology would be essential for verification purposes.	The aspects of climate change and hydrology have been considered and responded to above.
4.25	Shangoni	Section 2.1 and 4.3 of the GN only refers to the sensitivity of the following themes as per the Screening Report: <ul style="list-style-type: none"> <li>• Plant species;</li> <li>• Animal species;</li> <li>• Terrestrial biodiversity;</li> <li>• Aquatic biodiversity; and</li> <li>• Agriculture</li> </ul>	However, Shangoni recommends that the sensitivity of the Archaeological and Cultural Heritage theme, Civil Aviation theme and the Avian theme should also be included in the solar exclusion regulation as the impacts and risks associated with these themes could be high.	Archaeology and cultural heritage impacts will be considered through the process as required by the National Heritage Resources Act.  The civil aviation requirements are applicable to certain developments which could pose a risk to aviation, solar PV facilities are not identified as

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				being such, unless developed within a specific buffer of an airport or landing strip. For the powerlines associated with the solar PV facilities certain requirements have been identified. These are however, required through the Civil Aviation Act 2009 and will be addressed through that legal framework.
4.26	Shangoni	In Section 4.10, reference is made to cumulative impacts being assessed during the site verification by specialists. In Section 5.1.2.2, reference is made to environmental impacts. However, the GN does not make specific reference as to whether an Impact Assessment is required and if it must be included in the specialist's verification reports.		The Norm does not require any assessment, but rather a verification of the environmental sensitivity already identified on the screening tool. With respect to cumulative impact, the Norm requires the various specialists to consider and discuss the cumulative impacts related to their specific theme. Should cumulative impacts not be acceptable, an exclusion in terms of this Norm is not possible and an EA would be required at which time the cumulative assessment would be undertaken.

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4.27	<b>BirdLife SA</b>	<p>Section 4 and 5 make provision for the exclusion to apply to areas of high and very high sensitivity, provided that site sensitivity verification indicates that sensitivity is low or medium. This is at odds with section 2 which indicates that the scope applies only to areas of low or medium sensitivity as identified by the screening tool.</p> <p>We also caution that extending the exclusion to areas of high and very high sensitivity for fauna, without adequate safeguards (e.g. opportunity for review by conservation authorities and other experts, and provision for registrations to be refused or reverted to the applicant) may not be a risk averse or precautionary approach</p>	We suggest that the scope and applicability of the norm should be more clearly defined to avoid any ambiguity.	Only linear infrastructure may be considered in areas of high or very high environmental sensitivity under certain conditions. The scope has been amended to include this requirement.
4.28	<b>BirdLife SA</b>	We welcome a more exacting description of what the site sensitivity verification process entails	it should be made explicit at the beginning of section 4, that the physical inspection must be undertaken by the appropriate specialist/s, and not just be the EAP or environmental scientist	The need for a physical inspection has been included and evidence provided. Paragraph 4.5.3 indicates that the site sensitivity verification inspection must be undertaken by a specialist with demonstrated expertise in the field for which they are undertaking the site sensitivity verification and, where relevant, the taxonomic group of the species being considered specialist in the theme under consideration.
4.29	<b>BirdLife SA</b>	We approve of the requirement in section 4.7 that the specialist must confirm the presence, likely presence or absence of a species of conservation concern, for the plants and animal themes that are identified as "medium" sensitivity.	However, it would be advisable to explain the reasons for this either in the content of the Schedule or in a footnote. To the best of our knowledge, many EAPs and environmental scientists have not read the Guidelines that accompany	Paragraph 4.9 does indicate that the specialist must confirm the presence, likely presence, or absence of a species of conservation concern within the footprint.



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			the Screening Tool in detail, and will not understand the reasons why confirmation is important in respect of the "medium" sensitivity categorisation.	
4.30	BirdLife SA	Further to the above comment, we would urge the DFFE to provide further training regards the application of the Screening Tool and the associated Protocols and Guidelines, as well as the application of the Mitigation Hierarchy. Judging from the numerous reports we review, whilst EAPs generally apply the Screening Tool and produce a Screening Report, there is limited capability when it comes to interpreting the results, and applying the Protocols according to the relevant Guidelines.		Additional training will be provided in the next calendar year which will identify how the documents submitted must consider the outcomes as identified in the screening report and how the protocols affect the assessment. The protocols are however not relevant to the exclusion as only a verification not an assessment is required. Relevant requirements set out in Protocols have been included in the Norm where it was deemed appropriate and necessary.
4.31	BirdLife SA	We strongly support the safeguard in section 4.8, which indicates that the exclusion will not apply if a species of conservation concern has been found on the proposed development footprint, or has been confirmed as likely present.	To minimise any risk of legal ambiguity, we suggest that this section should be more clearly defined, keeping in mind that many species of conservation concern are mobile and many only occupy sites seasonally or under certain environmental conditions. We recommend that the norm should emphasise the importance of the precautionary principle in the context of 'likely presence', with reference to relevant portions of the Species Environmental Assessment Guideline	It is thought that the requirements are clear and no further amendment is required.
<b>APPLICATION OF THE EXCLUSION</b>				

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5.0	<b>ABO Wind Renewable Energies (Pty) Ltd.</b>	5.1 This exclusion applies where the footprint or proposal expansion on the footprint of a proposal solar photovoltaic facility including any associated activities contemplated	Can the Standard apply to a solar facility that already has EA, and is now moving to apply for registration for the EGI components thereof? Would the PV facility have to be in a low to medium-sensitivity area in terms of the themes listed in section 2.1.1 of the draft Standard?	The solar PV facility registration must include all the associated activities. If the proposed power line was not assessed through the EIA process for which the EA has been obtained, then the power line can be registered through the EGI Standard if the project location is within a strategic EGI corridor. The Standard is currently being extended to other areas but at this time the Standard and exclusion is related only to the strategic EGI corridor. The infrastructure associated with the solar PV installation must be considered under the solar PV exclusion if the facility falls within the scope of the exclusion. There is a separate exclusion for a battery storage facility, but that would apply to a stand-alone battery storage facility which falls within the scope of the exclusion, and a stand-alone power line would be excluded under the EGI standard if it falls within the scope of the standard.
5.1	<b>DEA&amp;DP</b>	<p>The Exclusion Norms include a number of decision-making steps where the decision-making competency has been shifted to the EAP/Specialists with no involvement by the Competent Authority, these include:</p> <ul style="list-style-type: none"> <li>• The adequacy of the site sensitivity verification (paragraph 5.1.2);The change of</li> </ul>	It is suggested, that should these Exclusion Norms be implemented, it must be expanded to include an opportunity for the Competent Authority to review the information provided before registering a proposed development. (This is particularly important where there	The objective of the exclusion is to exclude the project from requiring an environmental authorisation as is provided for in NEMA. The review step is not included in an exclusion process. The requirements for a focused consultation process has been added.

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		<p>the sensitivity category based on a sensitivity report;</p> <ul style="list-style-type: none"> <li>• The route of the linear infrastructure, especially through areas of “high” and “very high” sensitivity (paragraph 5.1.2); The application of the mitigation hierarchy (paragraph 5.1.2); and the adequacy of addressing stakeholder concerns (paragraph 6.2.9).</li> </ul> <p>The proposed Exclusion Norms do not provide any comment or decision-making opportunity to the Competent Authority (paragraph 8) but are only required to register the development. It is not clear what the implications will be if such a registration is based on incorrect information, or where impacts were inadequately dealt with.</p> <p>This Department is of the opinion that Competent Authorities are legally required to consider the adequacy of information, consistent with the principles of section 2 of NEMA, and the objective of section 23 of NEMA. This function cannot be shifted onto EAPs and specialists.</p>	<p>are changes to the sensitivity categories as provided by the Screening Tool).</p>	<p>No authorisation is required as the objective of the Norm is to exclude the project from the requirement to obtain environmental authorisation.</p> <p>NEMA makes provision for exclusion from the requirement to obtain and environmental authorisation. The principles of NEMA have been incorporated into the proposed exclusion process.</p>
5.2	DEA&DP	<p>What is the process to determine a “pre-negotiated corridor”, and on what information would that be based, if the information to inform the determination of the “pre-negotiated corridor” is only presented in the site sensitivity verification report? Who are the parties to such a negotiation – is it only the proponent and the Competent Authority, or would such a process involve public participation, especially since it involves the linear component of the</p>	<p>Clarify the process to determine a “pre-negotiated corridor” for linear components which fall in a “high” or “very high” sensitivity.</p>	<p>The definition of pre-negotiated has been amended to indicate that the negotiations are to be held with the landowner. The pre-negotiation does not refer to any specific sensitivity but is intended to ensure that the landowner provides a prior agreement to allow the servitude to be located on their property to avoid appeals and amendments once the registration is</p>

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		<p>development and could therefore impact many landowners?</p> <p>If this aspect is only negotiated between the landowners and the proponent, how will it be determined to be acceptable to the Competent Authority, or does the Competent Authority not have a say in the matter?</p>		<p>issued.</p> <p>The pre-negotiation is with the landowner and is not part of the public consultation. The minimum requirement for public consultation has been added and now clarifies what must be made available to affected parties.</p> <p>The environmental acceptability is considered through the work of the specialists.</p>
5.3	<p><b>Department of Agriculture, Environmental Affairs, Rural Development and Land Reform</b></p>	<p>Section 5.1 – Disagree with the “exception of linear infrastructure in which case the pre-negotiated corridor may be located in areas of “very high”, “high”, “medium” and “low” environmental sensitivity, if...”</p> <p>The inclusion of very high and high sensitive areas is not supported because it is against the NEMA / EIA principles. When do you allow the trade-off of environmental deterioration in comparison to development? What is the guideline or best practice principle for deciding when the development’s need outweighs the environmental conservation need as guided by NEMA, its associated legislations and regulations, and international treaties? Developers often just refuse to look for alternative grid routes, just because it will cost more. In our view this is not following the mitigation hierarchy, but developers disagree on this point.</p>	<p>It is suggested to rather exclude at least very high and high Sensitivity, from this section.</p>	<p>The disagreement is noted, however without such an ability to traverse some areas of high or very high environmental sensitivity for the linear infrastructure it would be almost impossible to utilise this exclusion as the definition of watercourse includes “ a natural channel in which water flows regularly or intermittently”. For linear infrastructure over long distances a channel in which water flows regularly or intermittently will always be traversed. The instances where linear activities will be considered to traverse or be located within areas of high or very high environmental sensitivity must be considered by specialists in the specific field and these specialists must confirm that any impacts can be mitigated, that avoidance was practised where possible, suitable</p>

	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
				<p>mitigation measures are included in the EMP and that the impacts are acceptable after mitigation.</p> <p>The instances where linear infrastructure would be allowed to traverse or be located within areas of high or very high environmental sensitivity are considered by specialists and the EAP/ES and therefore are not determined only by the developer.</p> <p>The Norm has also been amended to ensure that areas within the corridor which are identified as being sensitivity and should not be developed due to sensitivity are identified and mapped and the Norm indicates that development is not permitted to occur in these areas, as the Norm is required to be complied with any development in these areas would be an offence.</p>
5.4	<b>Sasol South Africa Limited</b>	<p>5.1. <i>“This exclusion applies where the footprint or proposed expansion of the footprint of a proposed solar photovoltaic facility, including any associated activities contemplated in paragraph 3, are to occur entirely</i></p> <p>5.1.1 <i>in areas of “medium” or “low” environmental sensitivity and confirmed to be such by the site sensitivity verification inspection for the environmental themes as identified in paragraph 4.3.1”</i></p>	<p>Consideration of the applicability of the environmental sensitivity in relation to the entire footprint to be of “medium” or “low” rating. Consideration to be made for at least 80% of the footprint to be of “medium” or “low” rating and not the entire footprint.</p> <p>The request to consider at least 80% of the footprint, is based on that in</p>	<p>It is not intended that the footprint of the solar PV facility other than the linear infrastructure corridor be allowed in or to traverse areas of high or very high environmental sensitivity. Development in these areas must be avoided. Where this is the case, the normal EA requirements will apply.</p>

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			<p>nature the solar project requires more footprint and is highly unlikely that the entire footprint would be of “medium” or “low” sensitivity for most cases.</p> <p>It is requested that consideration for where the remaining 20% high sensitivity is not within Critical Biodiversity Areas, protected areas, etc should be looked at, as majority of the footprint for such developments would be of medium or low sensitivity,</p>	
5.5	CSIR	5.1. Footnote 4 on the Environmental Management Programme (EMPr) para. 5.1.2.2 is confusing	<p>Should this be “does apply” or “does not apply”? Suggest splitting the footnote on the EMPr into two sentences. First sentence on whether the Generic EMPr for substations and powerlines applies (or not), followed by a second sentence. Also, suggest adding to the second sentence “where relevant”.</p> <p>“The EMPr required in terms of this norm must include the aspects of the solar photovoltaic facility, the substations and overhead electricity transmission and distribution infrastructure, where relevant”</p>	The footnote has been amended and split as suggested.
5.6	CER	We are concerned with, and object to, clause 5.1.2, which provides for the exclusion to apply <i>“in areas where the site sensitivity verification for a specific theme identifies that the “very</i>		The motivation for disputing the site sensitivity must be provided in the draft site sensitivity report, which must now be consulted with affected

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		<p><i>high</i>” or “<i>high</i>” sensitivity rating of the screening tool is in fact “<i>medium</i>” or “<i>low</i>” sensitivity”. In our experience, Environmental Assessment Practitioners often make conclusions of medium/low impact - frequently without adequate justification or in relying on unverified or unattainable mitigation measures - even if the specialist studies reference high impacts. In the case of <i>EarthLife Africa v Minister of Environmental Affairs and Others</i>, the court recognised that it is not sufficient for developers and consultants to provide generic assumptions of climate change impacts on projects and merely state that they are not very high without sufficient evidence supporting these claims.</p>		<p>parties, including conservation bodies. Evidence must be provided when a site sensitivity of high/very high is disputed and verification of low/medium sensitivity is required. Both the specialists and the EAPs are required to sign the documents in which they provide their findings. The development proposed in the case mentioned was not a solar PV facility but rather a new coal fired power station. The situation regarding CO2 emissions are quite different. It is not envisaged that all developments would require a climate change assessment but rather that climate change aspects would be considered in the need and desirability considerations as well as the mitigation and management measures. A solar PV facility does not generate CO2 emissions through the operation of the facility and EIA in South Africa currently do not require a life cycle analysis to determine the CO2 emissions associated with the material used in the construction of such a facility.</p>
5.7	CER	<p>Similarly, reliance on practitioners appointed by project proponents deciding on the level of sensitivity without sufficient justification cannot suffice. This additionally creates a perverse incentive to degrade sensitive areas so that projects may proceed. It therefore opens the door to abuse by proponents and incentives to</p>		<p>The requirement is to confirm the level of environmental sensitivity based on a physical site inspection and other desk top information. This process of site sensitivity verification is now to be subjected to consultation. EAPs/ESs and specialist’s all belong to</p>

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		degrade highly sensitive areas – if it then means they can proceed without any EIA or prior approval from a competent authority.		<p>professional bodies that are bound by codes of conduct and as such the information provided by these professionals should be able to be relied on.</p> <p>Should a proponent or landowner kill biodiversity or remove bird nests to remove the highly sensitivity biodiversity and allow development, this would have also been the case where an environmental impact assessment would have been required. The ability to apply this Norm would not change the behaviour of unscrupulous proponents or landowners.</p>
5.8	CER	<p>We reiterate that this is not a concern that is raised without a reasonable apprehension. In our experience it is not uncommon for environmental assessment practitioners (<b>EAPs</b>) to lack diligence in some instances and conduct themselves unscrupulously in others. EAPs have been found to have misrepresented their qualifications and ignored the adverse effects that proposed developments may have in the compilation of their impact assessment reports. At least one EAP faces criminal charges for professional misconduct entailing the plagiarism of reports that were location-specific. There is thus the reasonable apprehension that some EAPs may lack the independence, professionalism and honesty required of them to perform their environmental protection functions meaningfully. This is</p>	We thus suggest that clause 5.1.2 be deleted.	<p>The justification provided is subject to consultation. In the case of this exclusion, only a specialist (and not an EAP) can do the site sensitivity verification. Should the EAP/ES or specialist be unscrupulous there is certainly a high probability that the behaviour would be exposed and repercussions would apply. For approximately the last year EAPs are required to be registered with a professional body therefore it is necessary to put some trust into the system. As indicated an EAP faces criminal charges so professional bodies are taking action against unscrupulous behaviour.</p>



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		hugely problematic in a process where no provision is made for discretion and decision-making by the competent authority, as in the proposed exclusion.		
5.9	CER	We are also concerned about the exception provided for from the end of paragraph 5.1.2 regarding the “ <i>exception of linear infrastructure which forms an integral part of a solar photovoltaic facility</i> ” which allows for the pre-negotiated corridor to be located in areas of “very high” “high”, “medium”, or “low” environmental sensitivity on certain conditions. Furthermore, the implementation of the mitigation hierarchy does not replace the necessity of an EIA especially where areas of “very high” or “high” sensitivity are concerned.		<p>There are conditions under which linear infrastructure may be located in or traverse an area of high or very high environmental sensitivity, which includes a statement by the EAP/ES and relevant specialist that the impact after mitigation is acceptable.</p> <p>It is necessary to allow for linear infrastructure to be located in or traverse an area of high or very high sensitivity due to the manner in which a watercourse is defined. This includes a natural channel in which water flows regularly or intermittently. This is similar for the activity related to infilling. For linear infrastructure over long distances a channel would be intersected. It is therefore necessary to allow for sections of linear infrastructure to traverse these areas. In addition, it is also possible to allow for an aerial component of a power line to traverse over a field crop boundary without impact. For linear structures such deviations are necessary to allow the exclusion to be utilised in the matter envisaged. Where such linear infrastructure is considered in these areas conditions</p>

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				do apply in order to ensure that this is only done in areas where there are no other options and the mitigation measures ensure that the impacts are acceptable after mitigation.
5.10	CER	We are concerned with, and object to, clause 6.1.2, which provides for the exclusion to apply “in areas where the site sensitivity verification for a specific theme identifies that the “very high” or “high” sensitivity rating of the screening tool is in fact “medium” or “low” sensitivity”. In our experience, EAPs often make conclusions of medium/low impact - often without justification or in relying on unverified or unattainable mitigation measures - even if the specialist studies reference high impacts. In the case of <i>EarthLife Africa v Minister of Environmental Affairs and Others</i> , the court recognised that it is not sufficient for developers and consultants to provide generic assumptions of climate change impacts on projects and merely state that they are not very high without sufficient evidence supporting these claims.		Both the EAP/ES as well as the specialist must sign off on both the EMPr as well as the site sensitivity verification report. The specialist would therefore have conducted the physical inspection to determine the site sensitivity and have signed off on that in his/her professional capacity. The specialist will therefore have knowledge of what is finally proposed and would need to agree with the proposal.
5.11		Similarly, reliance on practitioners appointed by project proponents deciding on the level of sensitivity without sufficient justification cannot suffice. This additionally creates a perverse incentive to degrade sensitive areas so that projects may proceed. It therefore opens the door to abuse by proponents and incentives to degrade highly sensitive areas – if it then means they can proceed without any EIA, public participation or prior approval from a competent authority.	We thus suggest that clause 6.1.2 be deleted.	Justification is provided through the site investigation of the specialist as well as the identification of additional information which supports the site sensitivity verification.  The current EIA process relies on the information provided by the specialist and EAP appointed by the proponent.  In addition, the CA and affected

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		<p>This is not a concern that is raised without a reasonable apprehension; it is not uncommon for environmental assessment practitioners (<b>EAPs</b>) to be lazy in some instances and unscrupulous in others. EAPs have been found to have misrepresented their qualifications, and ignored the adverse effects that proposed developments may have in the compilation of their impact assessment reports. At least one EAP faces criminal charges for professional misconduct entailing the plagiarism of reports that were location-specific. There is thus the reasonable apprehension that some EAPs may lack the independence, professionalism and honesty required of them to perform their environmental protection functions meaningfully. This is hugely problematic in a process where no provision is made for public scrutiny and consultation or for discretion and decision-making by the competent authority, as in the proposed exclusion.</p>		<p>parties would be able to consider the information prior to registration.</p> <p>EAPs have just recently been required to be registered with a professional body which was specifically required to ensure accountability and improve the quality of documents submitted. If their qualifications were being misrepresented the professional body would be aware of this.</p> <p>With the new requirement for regulation with a professional body it is more likely that EAPs would now be more professional as there are consequences should they be found not to be.</p> <p>There is provision for affected parties and the CA to consider the information prior to registration.</p>
5.12	CER	<p>We are also concerned about the exception provided for at the end of clause 6.1 for “<i>linear infrastructure which is necessary and that forms an integral part of such activity, in which case such infrastructure can be in areas of “very high”, “high”, “medium” or “low” environmental sensitivity.</i>”</p> <p>Firstly, “linear infrastructure” is not defined – lending to uncertainty as to what this entails and exposing the application of the exclusion to abuse. Secondly, it is unacceptable that</p>	We strongly recommend that this be deleted	The recommendation has been noted, however, without the ability for the linear infrastructure to traverse or be located in areas of high or very sensitivity it would be almost impossible to utilise this exclusion as the definition of water course and the activity related to infill would make it impossible for a linear activity to avoid all areas of high or very high environmental sensitivity. It is therefore necessary to allow for

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		<p>activities can take place in areas of high sensitivity simply by virtue of being allegedly integral to excluded activities, and without any prior assessment or approval by a competent authority – this poses room for grave risk to environment, and prejudice to human health and well-being and renders redundant the EIA and environmental management system.</p>		<p>sections of linear infrastructure to traverse these areas. The instances where this will occur must be considered by specialists in the specific field and these specialists must confirm that any impacts can be mitigation, that suitable mitigation measure are included in the EMPr and that the impacts are acceptable after mitigation.</p> <p>The instances where linear infrastructure would be allowed to traverse areas of high or very high environmental sensitivity are considered by specialists and the EAP/ES and therefore are not determined only by the developer.</p> <p>The Norm has also been amended to ensure that areas within the corridors which are identified as being sensitive and should not be developed due to sensitivity are identified and mapped and would be unavailable for development.</p>
5.13	BirdLife SA	<p>In section 5, referring to the application of the exclusion, we remain concerned about the potential impact of infrastructure on sensitive areas.</p>	<p>In this regard, we suggest deleting the words "as far as practically possible" given that it is readily arguable that the diversion of linear infrastructure is impractical for the developer, particularly from a cost perspective. Environmental scientists or EAPs may, therefore, feel pressured to advise that such</p>	<p>With respect to linear infrastructure, it is not possible to fully apply the avoidance hierarchy in areas of high or very high environmental sensitivity as the linear infrastructure would then be in low or medium environmental sensitivity and no deviation would be required, therefore as far as practically possible is the level that</p>

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			diversions and adjustments are not "practically possible". Given the extent of threats to valuable species and habitats more generally, impact on sensitive areas should be avoided, notwithstanding potentially higher costs and impracticalities of doing so.	would be required to be achieved. The EAP/ES and specialist would all need to confirm in the site sensitivity verification report that the mitigation hierarchy has been applied as far as possible. The specialists would be required to identify that the impact would be acceptable after mitigation. In addition the Norm has been amended to map areas within the corridor which must be avoided due to environmental sensitivity.
<b>REGISTRATION</b>				
6.0	<b>ABO Wind Renewable Energies (Pty) Ltd</b>	Section 6.4 – validity of the registration	It is suggested that the validity period be 10 years, as per the typical validity assigned to an EA. This would be low-risk from an administrative and environmental protection perspective given that development would already be occurring in verified low- and medium- sensitivity areas, with anticipated impacts being managed through an EMPr	The EIA Regulations identify that the EAP must identify the validity period for the EA, there is no standard timeframe for the validity of an EA, this is a condition of the EA and to be identified by the EAP. It is thought that 6 years would be reasonable and other comments have indicated that in fact 6 years is too long.
6.1	<b>Sasol South Africa Limited</b>	6.2. "The following documents must be submitted for registration;  6.2.2. the screening report for the footprint and the proposed pre-negotiated corridor for the linear infrastructure, generated by the screening tool...	It is therefore requested that only the written landowner's consent be required for permitting phase of the linear infrastructure projects.	There would be no point in providing a corridor for linear activity for registration which has not been discussed with the landowner as this would mean that the work would need to be redone should the landowner not agree. The pre-negotiation is not required to include any financial commitments it is just intended to indicate that the landowner knows

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		<p>6.2.5. Confirmation of pre-negotiation with landowners in the case of linear infrastructure...”</p> <p>Consideration to accept written landowner’s consents for linear Infrastructure as a pre-negotiated corridor with such landowners. The land negotiation with landowners for Corridor/servitude is pre-mature for the permitting phase and mostly undertaken at execution phase of the project.</p>		<p>about the proposed location of the linear infrastructure and that they would not oppose this.</p>
6.2	DEA&DP	<p>The proposed Exclusion Norms for the development and expansion of Solar Photovoltaic Facilities and the development and expansion of Battery Storage Facilities in areas of low or medium environmental sensitivity is flawed in that it does not give effect to integrated environmental management and sustainable development:</p> <p>There is no opportunity to promote the integration the principles of environmental management set out in section 2 of NEMA into the making of all decisions which may have a significant effect on the environment, as there is no decision to be made by the Competent Authority.</p> <p>The proposed exclusion based on the Exclusion Norms does not enable the identification, prediction and evaluation of the actual and potential impact on the environment, socio-economic conditions and cultural heritage, the risks and consequences and alternatives and options for mitigation of</p>	<p>There must be an opportunity for authority review (to check adequacy and accuracy of the information) and there must be a decision made by a Competent Authority.</p>	<p>NEMA makes provision for an exclusion from the requirement to obtain an environmental authorisation. Over the past few years the sector has been improving and developing a number of tools available for use in decision making and in the consideration of environmental sensitivity. Significant resources are being spent on the development of these new tools and requirements to remove the reliance on the EIA as the only tool in the IEM tool box. This is also a call being made by many provincial competent authorities and applicants.</p> <p>The exclusions have the specific objective to remove the review and decision making step. The DFFE has reviewed a significant number of applications related to Solar PV activities and has gained sufficient experience in the impacts and</p>

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		<p>activities, with a view to minimising negative impacts, maximizing benefits, and promoting compliance with the principles of environmental management set out in section 2 of NEMA.</p> <p>It does not ensure that the effects of the activities on the environment receive adequate consideration before actions are taken. The Competent Authority has no opportunity to consider the adequacy and correctness of the information.</p> <p>It does not ensure adequate and appropriate opportunity for public participation in decisions that affect the environment. While paragraph. 6.2.9 refers to “public consultation”, it is merely “public notification” as there is no opportunity to engage and influence the outcome of the process. There is no opportunity for conflict resolution or decision-making by a Competent Authority where there are conflicts or differences in opinion. There is no mechanism to ensure that public participation is adequate.</p> <p>It does not ensure the consideration of environmental attributes in management and decision-making which may have a significant effect on the environment. The five themes identified may not include all the environmental attributes applicable, and there is no opportunity for review and decision-making. There is no opportunity to co-ordinate the activities of organs of state. The NEMA Principles require amongst others that there must be intergovernmental co-ordination and</p>		<p>mitigation measures applied to the technology to allow for such an exclusion.</p> <p>With the call for using other IEM tools, the progress made in the development of tools, the experience of reviewing these types of facilities and the professionalising of the sector it is deemed appropriate to be able to utilise the exclusion requirement based on specific verification and other considerations.</p> <p>The Norm has been amended to include a consultation requirement.</p> <p>The consultation process has been clarified.</p> <p>NEMA makes provision for an exclusion. The impacts on heritage will be undertaken through the process as prescribed in the National Heritage Resources Act, 1999. The exclusion is allowed only after undertaking verification inspections, applying specialist knowledge, identifying mitigation measures, focused consultation the preparation of the EMPr and a registration process to facilitated compliance monitoring. These measures give effect to the NEMA principles (risk averse, geared towards sustainable</p>

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		<p>harmonisation of policies, legislation and actions relating to the environment. In fact, the norm expressly states that requirements of any other relevant legislation, including the National Heritage Resources Act, 1999, remain applicable.</p>		<p>development).</p>
6.3	DEA&DP	<p>Meaningful public consultation is the foundation of the EIA process and administrative justice – i.e., to allow interested and affected parties to comment on a proposed development that may impact on their environmental right.</p> <p>The proposed Exclusion Norms only deals with impacts associated with plant and animal species, terrestrial and aquatic biodiversity, and agriculture. No other impacts are considered in the application of the Exclusion Norms. Interested and Affected parties’ environmental right and the principles contained in section 2 of NEMA extends beyond this limited scope of impacts addressed by the Exclusion Norms.</p> <p>One impact not addressed by the Exclusion Norms, is visual impact and the associated “sense of place” implications thereof. The proposed Exclusion Norms also removes one of the fundamental components of an EIA process that addresses impacts, namely the consideration of alternatives as the first step in the application of the impact mitigation hierarchy.</p> <p>In a recent article, a prominent EAP stated “...while there was generally a high level of public support for renewable energy projects,</p>	<p>It is suggested that a similar level of public participation is included in the Exclusion Norms process, such as that included in the current EGI Standard.</p>	<p>The level of public consultation has been included in the Norm and resembles that of the EGI Standard.</p> <p>Based on the experience gained in reviewing over 800 renewable energy applications the impacts and mitigation measures associated with this technology have been identified and are understood. Generally large scale solar PV facilities are located in areas of high irradiation which are mostly located in the sparsely inhabited Northern Cape. If there is resistance to the location of the facility this will be identified through the consultation process with affected parties.</p>



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		<p>the growth of solar farms had shown that glint and glare could be significant visual impacts. As such, these aspects have become an essential component of Visual Impact Assessments...”2. This extract from the article illustrated the importance of this impact, but more importantly, the need for a reasonable assessment of impacts and an opportunity for interested and affected parties that may be impacted by such developments, to raise their concerns and to have the reasonable expectation that their concerns will be investigated and considered during decision making. The proposed Exclusion Norms falls short of this fundamental requirement.</p> <p>The proposed Exclusion Norm does not provide a project level procedure for the identification of impacts associated with the interaction between (different categories of) sensitive environments and (different scales of Solar PV facilities) developments and an assessment to determine the significance of these impacts. In essence, the Exclusion Norms make no differentiation between a 2 hectare and a 500-hectare Solar PV development.</p> <p>In addition, the proposed law reform does not provide any information/evidence to stakeholders on what strategic assessment was done to support the rationale that Solar PV development located in areas categorised as “low” and “medium” sensitive (in terms of the Screening Tool), will result in low /insignificant impacts. There is no empowerment of</p>		<p>Glint and glare assessments are not necessary in areas which are not in close proximity to airfields. For more remote locations the glint and glare coming from standing water pose the same glint and glare impacts which are not assessed as there are no immediate concerns for aviation.</p> <p>A focused consultation process is provided for and guidance is provided on the extent of such consultation, adjacent landowners will be consulted and issues of visual impact can be discussed through this process.</p> <p>Cumulative impacts is to be considered by the specialists and discussed in the site sensitivity verification report.</p>

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		<p>stakeholders to understand the rationale for such law reform or to facilitate meaningful participation/dialogue in the Norm process.</p> <p>In summary, there is a lack of evidence and information to allow for meaningful consultation on the law reform process, and the proposed Exclusion Norms also does not provide a project level procedure for the identification of impacts associated with Solar PV developments (i.e., the interaction between different categories of sensitive environments and different scales of developments) and an assessment to determine the significance of these impacts. This undermines the principle (and right) to public participation in law reform as well as regulatory, project specific and decision-making level.</p>		<p>The basis on which the exclusion was prepared was discussed in the Comments and Responses Report prepared as a result of the first comment process. The basis is the two SEAs on solar PV technology undertaken between 2013-2020. The information generated by these two SEAs was extrapolated to apply to the entire country and collated onto the screening tool. In addition the experience gained by reviewing in excess of 800 renewable energy applications over the period from 2009 to date has been used.</p> <p>The DFFE does not agree with the lack of evidence and information provided and the lack of meaningful consultation. All of the gazetted notices are consulted through the Working Group structures as well as public consultation on the Minister's intention to consider these instruments.</p>
6.4	DEA&DP	The current "registration" process is not supported. Provision must be made for the review of the adequacy and accuracy of the information and a decision by a Competent Authority to accept it.	Suggest replacing the registration requirement with a decision by the Competent Authority and allow sufficient time for authority review (and decision making), for example 57 days for decision making.	The view of the DEA&DP is noted but not supported.
6.5	CSIR	Consultation may imply deeper engagement, such as a Public Participation Process including 30 days commenting opportunities on documents as per the EIA Regulations. The	Suggest para. 6.2.9 on "public consultation" be reworded to focus on "notification" rather than "consultation"	There has been guidance provided for the public consultation process.

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		mention of “consultation” may leave registrations unnecessarily vulnerable to review / appeal.”	”evidence of the notification of land owners, occupiers, adjacent landowners and relevant environmental non-governmental organisations of the proposed registration process and where registration documents may be accessed, to be attached as Appendix 5”.	
6.6	DEA&DP	To include (after section 6.2.4) “written feedback/comments from the Provincial Conservation Authorities where DFFE will be the competent authority...” To ensure that most recent and updated cumulative impacts are considered in the Sensitivity Verification Report. This is based on the fact that the Screening Tool is not a “live” database that is updated continuously and that not all provincial changes i.t.o. protected areas expansions and cumulative impacts are reflected in the Screening Tool.		All protected areas which have been proclaimed are included, this data set is updated on a quarterly basis.  A section on public consultation process has been included.
6.7	Department of Agriculture, Environmental Affairs, Rural Development and Land Reform	Section 6.2.9 – to include provincial environmental departments where DFFE will be the competent authority, not only NGOs.		A section on public consultation process has been included .
6.8	Department of Agriculture, Environmental Affairs, Rural Development and Land Reform	Clarity is needed on the inclusion of cumulative impacts within a specified spatial range; e.g. cumulative environmental impacts must be assessed i.t.o. ecosystem function, environmental sensitivities, landscape connectivity and climate change resilience mitigation as least. The current 30km radius used in the EIA process might not be sufficient		The solar PV facilities do not utilise large quantities of water which could impact on ecosystem function and the location of the footprint other than the linear infrastructure must be located in areas of low or medium environmental sensitivity and are not large water users which limit off site

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		for the arid region i.t.o. connectivity and climate change mitigation. Propose at least 50km radius around development for arid regions.		impacts. The specialists are however required to consider cumulative impacts and discuss these in the site sensitivity verification report.
6.9	Savannah Environmental	<p>There is no provision for the authority to include project-specific conditions as part of the registration.</p> <p>Will all requirements now be included in the approved EMPr for a project? Is the DFFE going to provide any additional conditions which should be included in the EMPr?</p>		This is an exclusion and there is no environmental authorisation required. Therefore no conditions would be envisaged. The EMPr is to document the identified mitigation measures which are necessary and would not contain conditions. The minimum content of the EMPr has been included.
6.10	CER	In our previous submission we had noted that the time period of 15 days for registration was too short. Whereas the previous exclusion provided a time-period whereby the proponent must register the proposed facility with the competent authority, the current exclusion notice does not provide for a period by which registration should take place, which creates a lack of clarity around the process and is ignorant of the thoroughness that must go into the consideration of the registration.		The proponent will submit the registration documents when they are ready, there is no set timeframe after the reports have been produced. The CA is not reviewing documents but considering the completeness of the application therefore the 10 days is regarded as being sufficient.
6.11	CER	To exercise necessary discretion to stop an activity from proceeding irrespective of the application of the tool and independent verification, failing which there is a fundamental breach of the competent authority's custodial duties and obligations.	We further reiterate the necessity to have provision for a competent authority to confirm or reject registration.	NEMA makes provision for exclusions and this is intended to be an exclusion with no review by the competent authority.
6.12	CER	In the preliminary exclusion notice, the registration of the facility and infrastructure was set to expire within 3 years if commencement did not occur; however, in the current notice, there has been an extension of another three		The area in which these solar PV facilities are located are not expected to change significantly over time, as they are mostly located on farming land as a review of the data base of

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		years, totalling the amount of time given before expiry to 6 years. This extension is not justified nor necessary and is too long a time to wait for the commencement of a project without the requirement of another assessment.		solar PV facilities has identified. It is therefore considered reasonable to allow a 6 year period, noting that the proponent submitted a proposal into the REIPPPP is not assured of the timeframe for tendering or between preferred bidder and financial close.
6.13	CER	Further, express provision must be made for the registration documents listed in clause 6.2 to be publicly available on the website of the Department, on the project site, on the website of the proponent, and where the proponent does not operate a website, then automatically on request.		The addition of guidance on the consultation that must be embarked on includes the need to notify the affected parties of the registration process being finalised and the ability to appeal. The guidance also requires the website to be made known to the affected parties.
6.14	GDARD	Expiration of registration.	It is suggested that the expiration of the registration should be increased to 10 years noting the national importance of energy generation projects. It should be noted that some projects may take a long while to commence because of a long period of financial closure and project planning.	The suggestion is noted however, other comments on the timeframe have indicated that 6 years is too long, so a balance must be struck and the timeframe has not been amended.
6.15	CER	Our main concerns with this provision are the following:  The absence of any provision for a decision to be made by a competent authority whether the project can proceed or not based on the verification report and tool (this also applies to clause 9, as below). This must be corrected.  To exercise necessary discretion to stop an activity from proceeding irrespective of the	There must always be provision for a competent authority to confirm or reject registration,	The concern is noted, however NEMA makes provision for an exclusion. Renewable energy technology applications have been reviewed over 800 times and it is thought that sufficient information is available to rely on the information collected on the screening tool and verified through specialist inspection on site.  Guidance has been provided on the

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		application of the tool and independent verification, failing which there is a fundamental breach of the competent authority's custodial duties and obligations.		consultation to be undertaken.
6.16	CER	the absence of any provision for public participation or public notification of the registration must be addressed.	We submit that registration or reregistration only 15 days prior to proposed commencement is too short a period to enable any meaningful, and necessary, consideration by a competent authority as well as notification to, and consideration by, the public and relevant stakeholders and interested and affected parties	This is an exclusion process not an environmental authorisation process.  The consultation process takes place before the CA receives the registration request.
6.17	CER	The absence of any provision for notification and public participation on registration is a fatal flaw.	Further, express provision must be made for the registration documents listed in clause 7.2 to be publicly available on the website of the Department, on the project site, on the website of the proponent, and where the proponent does not operate a website, then automatically on request.	The location of the documentation is required to be made known through the consultation process.
6.18	Shongoni	Section 6.2.9 refers to the registration process undergoing public consultation. Please specify whether this process will be in accordance with Chapter 6 of the Environmental Impact Assessment ("EIA") Regulations of 2014, as amended.		The process is not intended to be in accordance with Chapter 6, it is intended to be a focused consultation process. More guidance has been provided through the inclusion of a new paragraph related to consultation.
6.19	Landscape Dynamics	Confirmation of pre-negotiation with landowners in the case of linear infrastructure, to be attached as Appendix 3 'Pre-negotiation' can mean many things, i.e. we can negotiate,	Shouldn't this sentence specifically state i.e. "a letter of no-objection"?	Pre-negotiation has been defined. It is thought that the intention is clear and the definition has been expanded to provide additional clarity.

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		and proof can be provided, but not necessarily with success.		
6.20	Landscape Dynamics	<p>Evidence of the public participation followed to bring the proposed registration process and the location of which the registration documents can be accessed to the attention of adjacent landowners and land occupiers as well as relevant environmental non-government organisations, to be attached as Appendix 5. The following is understood: Adjacent landowners, land occupiers of adjacent properties and environmental non-government organisations must only be informed of the project and the necessary documents must be made available for perusal.</p> <p>There is no commenting period. No other IAPs are allowed to form part of this process. What is the purpose of informing these role players of the project if they have no say in what will happen? How can the DFFE take their rights away to participate in a project that will, in all probability, impact on them directly?</p> <p>The way this paragraph is written doesn't allow for any reasonable period for the said IAPs to peruse the documents (whatever the purpose of the perusal is). This implies that the documents can literally be made available one day before the submission of the Registration Form to the DFFE, in other words it truly serves no purpose.</p>		<p>The consultation process is proposed to be a focused consultation with affected parties, and with the amendments made to the Norm it is not intended to merely be a notification process. Affected parties are able to make input which must be considered in finalising the site sensitivity verification report and all other documents submitted for registration.</p> <p>An additional paragraph has been included which allows for a focused consultation on the registration documents before submission and the incorporation of comments submitted. Affected parties will be directly consulted. Evidence is to be provided of the consultation undertaken.</p> <p>An additional paragraph has been added which provides further guidance on the consultation requirements and identifies that a comment period must be communicated.</p>

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6.21	Landscape Dynamics	<p>To do this will be highly ineffective, but legal according to the wording in the Norm.</p> <p>The way the Norm is written is only providing the said IAPs with an opportunity to “comment” during the appeal procedure, which is, for many obvious reasons, an absolute unfair and nonsensical situation. Especially if the said IAPs only being made aware of this project one day before submission to the DFFE.</p> <p>An appeal process can prolong the date that construction can commence for many months – a situation that can very easily be prevented if comment on the development proposal is allowed. What exactly (if any) is the purpose of the proposed “public participation”?</p> <p>Having scanned through the C&amp;R Report of the distributed Norm in 2022 it is very clear that the lack of public participation was one of the major concerns of many of the role players. This C&amp;R Report states that “consultation” with IAPs is allowed for in the amended Norm. This is clearly not the case, because “making documents available” definitely doesn’t mean “consultation”</p> <p>The “public participation” as proposed in this Norm does not address the mentioned concerns in any way. As stated above, that which is obvious to one, isn’t obvious to another. Detail regarding the meaning of “public consultation” must therefore be included the Norm</p>	<p>Allowing for a commenting period, and ensuring that comment received must be taken into consideration when determining the developable footprint and when the EMPr is being compiled, surely allows for fair development and represents “consultation”. This approach should be followed to allow for sustainable development.</p>	<p>An additional paragraph has been added which provides further guidance on the consultation requirements and identifies that a comment period must be communicated, evidence of public consultation must be provided, and the manner in which the comments have been considered must be identified.</p> <p>The comment is noted and additional guidance is provided which allows for input into the documents submitted as part of a registration request</p> <p>A paragraph has been added which provides more guidance as to what is required through the focused consultation process, which allows for a set of draft documents to be considered by affected parties and inputs to be made.</p>



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6.22	<b>BirdLife SA</b>	With the onus on the authorities to register the application, without the application of discretion, any vague descriptors or phrases are problematic. For example, the requirement that specialists have "demonstrated" experience is open to interpretation.	To avoid ambiguity, it would be preferable to define "specialist" in a manner that is consistent with the definition in the EIA Regulations (in addition to the specialist being registered with SACNASP). Appointment of species-specific specialists should also conform to the requirements detailed in section 9.1. of the Species Environmental Assessment Guideline.	Specialists are registered with professional bodies and they are required to include their registration information including their certificates or proof of registration.
6.23	<b>BirdLife SA</b>	With regard to the "signed declaration" as a substitute for an Environmental Authorisation (EA) with legally binding conditions, we have already detailed our reservations about this in our previous comments on the initial exclusion proposal (please refer in this regard to paras 2.25 - 2.28 in our original comments). What is of particular concern is how the absence of an EA may affect the powers of the Environmental Management Inspectorate (EMI) and their ability to issue Compliance Notices.	In this regard there needs to be clarification about whether the generic EMPr is auditable, and how the EMI can retain its compliance and enforcement mandate in respect of reported or evident environmental damage and habitat destruction. In this regard we are aware that a Directive may be issued in terms of the NEM: National Water Act, or in terms of NEMA, but this process is less immediate and more complicated than the issuance of a Compliance Notice. We recommend that the issue of compliance and enforcement is explicitly addressed in the Schedule.	The concerns are noted, however NEMA provides for an exclusion process and several tools have been produced over the last decade to assist with decision making. The sector has also professionalised and exclusion is therefore believed to be warranted.  The EMPr for a solar PV facility is only for construction and construction would not take more than two years, auditing of the EMPr would therefore not serve a purpose. Normal environmental management process would be required through the operational phase.
<b>RE-REGISTRATION</b>				
7.0	<b>ABO Wind Renewable Energies (Pty) Ltd</b>	Pg 7 footnote states: "The Standard for the Development and Expansion of Transmission and Distribution Power Lines and sub-station does not apply to a power line associated with a proposed solar photovoltaic facility falling in	Can a PV facility and the linear infrastructure (i.e., the EGI) be separately registered? The listed activities would not necessarily be those listed in	The various components of a facility must be considered and registered together as provided for in regulation 11(3) of the EIA Regulations. The EMPr must also be developed which

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		the scope of this Norm, as the requirements of this Norm will be applicable in such an instance.	section 3.1.1 and 3.1.2 of the standard as they would pertain to transmission rather than generation of electricity.	manages the impacts of the entire facility.
7.1	<b>Department of Agriculture, Environmental Affairs, Rural Development and Land Reform</b>	Gap: re-registration also needed for expansion of current solar facility in addition to the change of ownership. Most of the solar developments start initially with a small footprint area, then expand the same project (development is in phases, but not stipulated as such when first footprint is applied for) extensively, using the argument that they cannot expand too far away of the current development as it will be too costly. But this is an 'abusive' approach as the developer knows its plans beforehand and abusing the argument of development costs thereafter. Accordingly, developments are often named with the inclusion of PV, PV2, Pv3, etc. The environmental concern is that often the initial footprint is environmentally acceptable, but the larger expansion is not.		Where different phases of a facility are developed over time a new phase or expansion would need to undergo the registration process as the area on which they would be developed would need to be verified.  All the anticipated activities must be registered together and not in a piece meal fashion in order to ensure that the cumulative impacts can be considered early on.
7.2	<b>DEA&amp;DP</b>	Clarity is needed on the REIPPP process in context of the proposed Norm for Solar, and the validity period of 6 years.  It has been found that explorative developers would apply for EAs but never develop as they did not receive preferred Bidder status or no grid connection is / will become available. However, due to the area being authorised before the next developer applying for the same area expect to also receive and authorisation, but by that time the cumulative Impacts of other developments cause the former not to be environmentally acceptable (decline possible)		The REIPPP process is intended to bring competition into the market therefore there would be some projects not being identified as preferred bidders.  The screening tool report identifies projects within a 30km radius of the proposed new site, therefore it would be possible to consider any cumulative effects.

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		anymore. This cause conflict and uncertainties. It is also illustrative of the fact that the EIA process is not holding up solar developments, but other factors like not receiving preferred bidder status and unavailable grid connection is rather the limiting factors for fast tracking renewable energy developments and not the EIA process.		It is widely accepted that it is not the EIA process that delays projects, and this is not the reason for developing this exclusion.
7.3	DEA&DP	<p>It is not clear why a facility must be re-registered when there is change of ownership after completion of the construction phase. 'IQ@DFFE' correspondence maintains that where the activity does not include "and operation", there is no operational phase and the EA lapses after construction. Surely the same should then apply to registration.</p> <p>From paragraph 8.3, it appears that there will be a need for compliance inspections by the Competent Authority. Why would there be a need for compliance inspections if there is no need to check the accuracy and adequacy of the information provided prior to registration? What happens when compliance inspection is done within the 14-day notice period and the Competent Authority realises that the information provided in the registration documents were not correct?</p>	Suggest including the Competent Authority review of adequacy and accuracy of the information provided and decision-making by Competent Authority.	<p>There are no major requirements associated with re-registration in the case of a change of ownership and it is good practice to have updated information to ensure that should compliance monitoring take place that the facility is registered to the current holder.</p> <p>The EMPr is legally binding and must be implemented to ensure that any mitigation measures are being implemented.</p> <p>Should fraudulent information have been provided this is an offence and will be dealt with as such, also there is professional liability.</p>
7.4	CSIR	Footnote 10 to para. 8.4.4 on where registration documents may be accessed implied that hard copies must be made available. Is this a reasonable requirement in this day and age? Especially considering that the Department	<p>Suggest para. 8.2 be reworded to avoid misunderstandings on public consultation.</p> <p>Suggest this be reworded to:</p>	The footnote has been amended to indicate that the information could be made available on the website of the registered holder, on site and on the website of the competent authority.

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		<p>does not request hard copy submissions of the Registration Form and supporting documentation.</p> <p><i>“On receiving the registration number, the holder must notify within 7 days, those parties <b>who were originally notified of the proposed registration</b> as contemplated in paragraph 6.2.8 that the registration number has been issued.”</i></p>	<p><i>“Registration documents must be, at minimum, made available online with reference to a contact number or email address from which hard copies of the registration documentation may be requested.”</i></p>	<p>For notification of the registration being issued, this paragraph now refers back to the parties identified through the consultation process.</p>
7.5	Mineral Council South Africa	<p>It is not clear where in the NEMA (as the principal environmental Act) the regulatory basis for a requirement for registration to occur where exclusions from obtaining EA is provided. This registration process goes beyond a record keeping process. The two notices contemplate the submission of the written consent of the landowner or person in control of the land constituting the footprint, to be attached as Appendix 3; and a registration form (with a pro forma set out in the notice). This amounts to a request for Registration – what would happen if there is a refusal to register or a challenge in obtaining consent from land owner on time. As one of the requirements to register for the proposed development or infrastructure, the proponent must submit an environmental management programme (EMP) compiled by the environmental assessment practitioner and signed off by the relevant specialists. In the case of mining, this requirement is against the principle of integrated licencing and add another layer of bureaucracy as opposed to companies asked to amend their existing EMP</p>		<p>As not all areas identified as being of low or medium environmental sensitivity have been physically inspected, it is necessary to ensure the verification of the sensitivity of these areas, which has necessitated a registration process.</p> <p>It would not be practical to propose development on the land of a third party without engaging with the landowner. If the landowner does not agree to have linear infrastructure over their property the project would be fatally flawed. It is also necessary to ensure that all mitigation measures to be employed are documented and implemented this is good environmental management.</p>

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		<p>incorporating the Solar PV and battery storage activities.</p> <p>The norms require that “<i>relevant non-governmental organisations</i>” be consulted. Clarity is required on how to determine which NGOs are relevant</p>	<p>The Minerals Council proposes that a definition be included on what is meant by relevant NGOs or a guiding document be provided in this regard to avoid ambiguity.</p>	<p>The EAPs and specialists are professionals and should be aware of the relevant NGOs who are active in the area or in the specific themes identified.</p>
7.6	<b>Mineral Council South Africa</b>	<p>Again, the notices require “evidence of the public consultation process followed to bring the proposed registration process and the location at which the registration documents can be accessed to the attention of adjacent landowners and land occupiers as well as relevant Environmental nongovernmental organisations”, to be attached as Appendix 5”.</p>	<p>Clarity should be given on what will happen in cases where the requirements of the full legislated public consultation process cannot be met due to situational circumstances.</p>	<p>The EAP is a professional person who is required to have expertise in running a consultation process, the EAP would therefore be required to understand what consultation is required.</p>
7.7	<b>Minerals Council South Africa</b>	<p>To re-register a facility a re-registration form contemplated in Appendix B is to be completed by the new owner due to a change of ownership and a signed declaration of commitment by the new owner to implement the environmental management programme contemplated in paragraph 6.2.7 must be submitted to the competent authority, within 30 days upon finalisation of a change of ownership.</p> <p>It must be appreciated that some of the information that is required in appendix B is already in possession of the competent authority (CA) and re submission of such could amount to administrative burden to both the new owner and the CA. In instances where the facility information is already submitted it should not be submitted again because it will be a duplication, thus the item 8.4.1 should cater for</p>	<p>The Minerals Council proposes that this should only be a transfer of the business or assets not for shareholding changes.</p>	<p>The new shareholder will be required to implement the EMPr if the change is made before construction is finalised. Therefore there needs to be a re-registration process. Also the name of the registered owner is required should compliance monitoring be undertaken.</p> <p>The information to be provided for the re-registration is not duplicating the original documentation. The requirement is merely to identify which section is to be transferred into the new owner’s name by providing a map and filling in the re-registration form or it is merely paperwork in the case of the entire facility being</p>

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		<p>that. Approved EMPs are legal binding documents and are treated as such. The requirement for a commitment declaration by the new owner to implement the EMP is misplaced and hold no substance for this purpose.</p> <p>The Minerals Council notes the provisions that the Solar Energy Project is re-registered when there is a change of ownership at any stage of the facilities lifecycle and that re-registration is required if the development footprint is to be amended to fall outside of the verified buffers. Clarification is required on change of ownership.</p>		<p>transferred to a new owner. Depending on the stage of development there may need to be a declaration signed to indicate that the new owner is aware of the commitment in the EMPr and is taking them on.</p> <p>The view is noted but not supported by the DFFE, it is necessary for the new owner to confirm that they are aware of the requirements and that they will comply. There are costs associated with implementing a EMPr which must be budgeted for by any new owner.</p> <p>Should the development footprint be expanded a new registration is required as the new footprint must be verified through a site sensitivity inspection.</p>
7.8	CER	Our concerns and objections in relation to registration (clause 6) and processing of registration (clause 9) apply equally to re-registration and this provision.	The recommendations made in respect of clauses 7 and 9 must apply here too. Namely there must be provision for: public participation on re-registration; for discretion of the competent authority to refuse re-registration where appropriate, and for easy availability of the registration documents to interested and affected parties.	The DFFE does not agree with the need for public consultation for a name change or ownership change for a review by the competent authority as there is no new environmental impact. The new owner needs to declare that they will implement the EMPr and should they not do this it would be an offence.
7.9	CER	We noticed that re-registration is not required where there is an amendment to the footprint or the alignment of linear infrastructure. Seeing as		The amendment may not move outside of the area for which the site sensitivity verification has been

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		these are amendments to the project which may result in significant impacts, depending on how big the amendments are, it should be necessary for there to be re-registration should amendments need to take place, especially if paragraphs 4,5 and 6 of the norm will need to be complied with.		undertaken. Should this be the case there would need to be a new registration process undertaken or an EIA process undertaken if the Norm would not apply.
<b>7.10</b>	<b>CER</b>	We reiterate the same concerns shared in our comment on clause 6 regarding the lack of discretion held by the competent authority in deciding whether or not to register the facility. This suggests that anyone can effectively proceed irrespective of what the reports and application documents say – rendering redundant the report and verification process. This is a fatal flaw and shortcoming in the proposed exclusion.		This view is not supported, the site sensitivity verification process is followed prior to the registration which produces documentation prepared by professionals and consulted on. The registration requires the submission of this information, and registration is required to obtain a registration number which is required prior to commencement.
<b>7.11</b>	<b>CER</b>	Further, there is no possibility of appeal in terms of section 43 of NEMA if there is no decision by a competent authority and no possibility to stop the activity in instances that would require such an intervention.		The right to appeal remains available as the registration is a decision and the developer will need to inform the parties of the registration and the ability to appeal.
<b>7.12</b>	<b>CER</b>	Our concerns and objections in relation to registration (clause 7) and processing of registration (clause 9) apply equally to re-registration and this provision.	The recommendations made in respect of clauses 7 and 9 must apply here too. Namely there must be provision for: public participation on re-registration; and for discretion of the competent authority to refuse re-registration where appropriate.	There is no change in the impacts associated with a re-registration when there is a change of owner or when a facility is split/partially transferred to a new owner. If there is no change to impact there should be no need for further consultation. If a footprint changes to an extent where the development is to extend beyond the verified buffer, a new registration process is required.

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7.13	<b>Shangoni Management Services</b>	Please verify whether the approval will be in the form of a Registration Certificate or an Environmental Authorisation with a set of conditions.		A registration number will be provided and no conditions are anticipated.
7.14	<b>BirdLife SA</b>	Regarding the consultation requirements detailed in section 6.2.9, we recommend that the requisite consultation process should also be elaborated in more detail (as it has been, for instance, in the powerlines standard)	Affected communities should be included in the list of those who are informed about the proposed registration process and where the relevant documents can be accessed.	More guidance has been provided with respect to consultation as suggested.
7.15	<b>BirdLife SA</b>	With reference to section 6.2 it is unclear what the difference is between the "written consent" required from the landowner/s for the site itself and the "pre-negotiation" process required in respect of land corridors for the associated infrastructure. In the list of definitions in section 1, the results of the pre-negotiation are specified as "the signing of a letter of no-objection or a letter of agreement". Is this not the equivalent of "written consent"?		Pre-negotiation has been defined, and it is an in principle agreement whereas written consent is exactly that, namely consent.
<b>PROCESSING OF REGISTRATION</b>				
8.0	<b>Savannah Environmental</b>	The registration process proposed for solar PV differs from that for Electrical Grid Infrastructure	It is suggested that the various registration processes to be gazetted should align to avoid confusion and Challenges by affected parties.	The processes are very similar although there are different requirements for consultation between an EGI project which impacts for very long distances and a solar PV facility with a dedicated distribution line to the facility.
8.1	<b>Savannah Environmental</b>	It is noted that the Authority has only 10 days to register the project. This does not provide sufficient time for informed decision-making and verification of the site sensitivity verification report to be submitted.		The final registration is not intended to be a review process, the objective of this Norm is to exclude the activity. The days to consider if the information is provided is therefore regarded as being sufficient. It is preceded by the



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				opportunity to provide input during the consultation period.
8.2	<b>Savannah Environmental</b>	The process proposed is unlikely to meet the requirements of lenders who require compliance with the IFC Standards and Equator Principles. It may happen that developers will now need to undertake additional environmental assessments in order to meet these requirements. This will result in significant delays in implementation of projects.		This is noted however the legislative framework of a country is not put in place to comply with lender requirements, it would be expected that the lenders respect the laws of the country. Having said this, the Department is engaging with lenders.
8.3	<b>CER</b>	<p>We reiterate the same concerns shared in our comment on clause 7.</p> <p>The use of the word 'must' in 9.1 suggests a lack of decision-making power and discretion by the competent authority. This suggests that anyone can effectively proceed irrespective of what the reports and application documents say – rendering redundant the report and verification process. This is a fatal flaw and shortcoming in the proposed exclusion.</p> <p>Further, there is no possibility of appeal in terms of section 43 of NEMA if there is no decision by a competent authority and no possibility to stop the activity in instances that would require such an intervention.</p>		<p>There is no intention for a review of the documentation, this would be done through the site sensitivity verification process.</p> <p>The view is noted but not supported.</p> <p>The appeal process is applicable as the registration is regarded as a decision.</p>
8.4	<b>BirdLife SA</b>	As stressed above, and in our comments on the previous exclusion notice (see section 2.9 and 2.30), we re-iterate our concern about the lack of discretion on the part of the decision-maker. We urge that the Norm includes, in section 8, a clear statement that the authorities reserve the right to revert the registration application back to the proponent if it is incomplete, does not		<p>The input is noted. A new paragraph has been included which requires consultation.</p> <p>Wording has been included which identifies that if the registration documentation is not complete that the proponent be informed of the</p>

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		meet the requirements of the Schedule, if the conclusions are poorly motivated or if the competent Authority has any other reason to be circumspect about the potential impact that may result from the proposed installation. In the absence of such a statement, we do not believe that the precautionary principle is adequately reflected in the content of the Schedule, or that the authorities are acting as responsible custodians of the environment on behalf of South Africans citizens.		shortcomings, as suggested.
8.5	DEA&DP	Why does the Competent Authority only have ten days to register the proposal? As a minimum, the Competent Authority and other relevant authorities should have the opportunity to comment on the Site Verification Report. Ten days is too little time for the Competent Authority.	Suggest providing the Competent Authority with sufficient time (e.g., 30 days) to register the proposed development.	There is no need for additional time to be provided, it is merely a checking process and should all the information not be submitted the timeframe does not start, the proponent is just informed about the inadequacy of the information provided.
<b>GENERAL</b>				
9.0	ABO Wind Renewable Energies (Pty) Ltd	<p>General Notes on the process: Should the DFFE (the CA) require comment from other parties within DFFE as part of the registration process, it is suggested that there be an internal alignment in this regard.</p> <p>It is suggested that a template be provided by DFFE for the reports required in terms of Section 6.2.2 and 6.2.3 of the Standard. This would aid in efficient processing of the Registrations and avoid potential issues where aspects need to be clarified.</p>		There is no need for comments to be obtained from other sections within the DFFE through the registration period.
9.1	DEA&DP	The Solar PV panels will affect the flow of stormwater, as the panels break the fall of rainwater, meaning that less rainwater could be	Consideration must be given to how best address the concern of stormwater and soil erosion.	The aspects of stormwater and soil erosion throughout the construction phase is considered through the

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		absorbed into the soil and more runoff in the area. This may lead to changes in the environment that affect the growth of indigenous vegetation as a result. Soil erosion may also be of great importance whilst considering this approach.		EMPr and after construction would be as per good environmental practice of the developer. There is a benefit for the developer to apply good management measures to protect the significant investment made and the timeframe of the operation of the facility.
9.2	DEA&DP	What waste management requirements have been considered for redundant solar panels and will these be taken into consideration in the Environmental Management Programme (“EMPR”)? The cradle-to-grave principle should be considered.	Waste management requirements should be incorporated in the Exclusion Norms.	The waste management option for solar panels is landfill as for most other waste types.
9.3	DEA&DP	Paragraph 9.2 provides for amendments required to be made to the EMPR. What is the process to amend an EMPR for a registered facility?	Define the process to amend an EMPR for a registered facility.	The EMPR amendments would be undertaken by the EAP and specialist, should amendments be needed the EAP and specialists would make the amendments and submit to the CA for information.
9.4	DEA&DP	<p>Paragraph 9.4 states that “non -compliance with this Norm constitutes an offence...”.</p> <p>As long as the registration form is completed and the required appendices are attached, there can be no non-compliance with the Norm. Non-compliance with the EMPr is not an offence because it would only constitute an offence in terms of Section 49A(1) of NEMA if the EMPr was approved by the Competent Authority.</p> <p>It is further not clear who will be conducting the compliance monitoring.</p>	The Exclusion Norms should include provision for the authority to review the adequacy and accuracy of the information provided for registration and the EMPR. This would reduce the possibility of offences.	Non-compliance could be in the form of not complying with the requirement of the EMPr. It would also be an offense to have provided incorrect information. There is no intention of providing for a review step as the objective of the exclusion is to exclude the activity from the requirement to obtain an environmental authorisation prior to commencement.

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9.5	DEA&DP	<p>Any law reform aimed at alleviating the current energy crisis facing South Africa must be evidence-based. The problem/s causing the energy crisis should therefore be clearly identified in order to accurately target these with appropriate solutions that will address the energy crisis in the short-term.</p> <p>For example, in South Africa there are hundreds of applications for renewable energy projects that have already been assessed and approved in terms of relevant environmental legislation, but the projects are not being implemented (due to for example grid capacity constraints). While the processes in terms of additional projects need to be fast-tracked, it should also be considered how to take forward the implementation of projects that have already been approved. A Strategic Environmental Assessment (“SEA”) was concluded in 2015 and subsequently shortened Environmental Impact Assessment (“EIA”) procedures were published for renewable energy facilities within the REDZ and transmission lines within the Strategic Transmission Corridors. The SEA (2015) states that by December 2013, 168 EIAs for renewable energy facilities with a capacity of 16447MW were in process and 302 renewable energy facilities with a combined capacity of 21087MW had been approved already.</p> <p>It is questionable whether the energy/ electricity crisis is in fact being exacerbated by the current environmental legislative framework,</p>	<p>The problem/s causing the energy crisis should be clearly identified in order to accurately target these with appropriate solutions.</p> <p>It is suggested that the problem statement be clarified. The link between these Exclusion Norms and the problem statement must be made. It must be clear that the solution (i.e. the Norms) are addressing the problem.</p> <p>It is recommended that there should be a survey to determine which of the already approved projects (from an EA perspective) are ready for implementation - this will deliver electricity quicker. For these projects the effort should be to coordinate with other organs of state to finalise outstanding regulatory approvals (e.g., land use decisions) if required or still outstanding.</p>	<p>The law reform being considered through the exclusions is not intended primarily to address the energy crisis. There was always an intention to develop Norms and Standards for the exclusion of projects and this has been ongoing for some time. A case in point is the exclusion of projects from the “Working for Programmes”. The Standard for the exclusion of EGI was also in progress since 2020. The Norm for the exclusion of solar PV has been one of the next range of activities to be excluded and the development of this exclusion was merely brought forward by a few months to respond to the concerns facing the country.</p> <p>Significant work was undertaken through the development of the three energy SEAs and much of the environmental sensitivity work was extrapolated to encompass the entire country and housed within the environmental screening tool. The work undertaken through these SEAs allowed a deep understanding of impacts and mitigation measures which is being taken forward in the preparation of these Norms.</p>

STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
	<p>specifically the National Environmental Management Act, 1998 (“NEMA”), the Environmental Impact Assessment Regulations, 2014 (“EIA Regulations”), and the various other Government Notices related to the Renewable Energy Development Zones (“REDZ”), Strategic Transmission Corridors etc. One of the key questions therefore relates to the need for this law reform, specifically, the need to remove the requirement for undertaking an environmental assessment and obtaining a subsequent Environmental Authorisation (“EA”). Is this based on evidence indicating that the requirement for EA is significantly delaying Solar PV development? This Department is of the view that there is little evidence to suggest that the EA process is delaying such developments.</p> <p>In addition, removing the need to follow the environmental authorisation regulatory process, does not remove the need to follow other required regulatory processes, including land use planning approvals in terms of the Spatial Planning and Land Use Management Act, 2013, approvals in term of the National Heritage Resources Act 1999, and the National Water Act, 1998. Unintended consequences of removing the EIA process and replacing it with a Norm that only addresses a limited scope of impacts, may include such issues being raised in other regulatory processes, as well as increasing appeals being submitted in terms of</p>		<p>It is not in any way considered that the EIA is in any way a constraint to commissioning new generation capacity, although the complicated environmental legislative framework with over 12 authorisations being required does create delays in achieving all authorisations and streamlining and cooperation is required.</p> <p>The DFFE is also of the view that the EA is not delaying energy projects.</p> <p>It is acknowledged that other legislative requirements are also in place. The DFFE is engaged in every opportunity that is provided to assist with the streamlining and coordination of these requirements to achieve improved overall timeframes for achievement of all the environmental legislative requirements.</p> <p>The impacts on heritage resources will be dealt with through the National Heritage Resources Act.</p>

	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
		<p>NEMA against the registration of such developments.</p> <p>This Department therefore maintains that the requirement to obtain an EA and following the EIA process is not the root cause delaying Solar PV developments. Also, it is submitted that this law reform will not result in regulatory efficiency in general, nor will it support the achievement of sustainable development outcomes (i.e., substantive effectiveness).</p> <p>The prioritisation of renewable energy developments does, however, provide an opportunity to integrate or align regulatory processes, including the EIA process, without the need to exclude the need for an EA (and the EIA process) through the use of a Norm.</p> <p>Consideration must also be given to the time period of new developments delivering electricity, i.e., any new proposal will take at least a few years to deliver any electricity into the grid, considering various regulatory approvals (which will not all be removed), landowner approvals, international funding agency requirements, project planning lead times, etc.</p> <p>In the meantime, more than 900 applications for renewable energy that has already been assessed and finalised in terms of environmental legislation (according to the Comment and Response Report provided by the Department of Forestry, Fisheries and the</p>		<p>This is agreed and not the objectives of continuing the exclusion processes.</p> <p>The objective of the Norm is to exclude the activity based on more than 10 years of work and the experience of reviewing over 800 projects related to renewable energy technologies.</p> <p>This is acknowledged.</p> <p>Government is not able to restrict the number of EA applications or requests for registration that are submitted to the competent authority.</p>

STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
	<p>Environment in response to the public comment process of September 2022) and possibly other statutes. Many developers may use this opportunity of reduced regulatory requirements, but with no real prospect for delivering electricity within the next few years (or more). At what social and environmental cost will this come?</p> <p>There should be a concerted effort to ensure that the developments already approved, are implemented, instead of focusing on clearing regulatory processes for future developments. These approved projects have all been subjected to some credible assessment process and is supported by relevant information.</p> <p>An article in the Engineering News (28 March 2023) stated the following "...Despite intense power disruptions, no new wind turbines were connected to South Africa's grid in 2022, the Global Wind Energy Council's (GWEC's) latest report has identified. The Department of Environmental Affairs and Development Planning Confirmed... In 2021, South Africa recorded 668 MW of new wind installations, up from 515 MW in 2020, which increased the country's overall installed base to 3 442 MW.... GWEC attributed the decline to procurement delays, including delays to wind projects selected during Bid Window 5 of South Africa's Renewable Energy Independent Power Producer Procurement Programme (REIPPPP)...The immediate outlook has also</p>		<p>There is no evidence that a registration process will increase the number of requests submitted.</p> <p>There are often commercial and grid access issues at play which restrict the ability of solar PV facilities to be constructed, this is not in the area of influence of the environmental competent authority as these are not environmental issues.</p> <p>These are all matters that are noted and it is agreed that EIAs are not the reasons for no new generating capacity being commissioned. It is however outside the mandate of the environmental competent authority to influence. NECOM structures are reviewing the reasons for more projects being constructed and generating energy.</p>

	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
		<p>been weakened by the fact that no wind projects were selected during Bid Window 6, which was launched in 2022. This, owing to the unavailability of grid capacity in the provinces of the Eastern Cape, the Northern Cape and the Western Cape". Although the article relates to wind energy developments, the lack of grid capacity will be equally applicable to Solar PV installations.</p> <p>Another consideration should be how long the period for this proposed reduced regulatory dispensation will last and whether there should be any "performance requirements" set for projects submitted within this period. For example, that projects must be implemented within a certain period. Is the intention for this dispensation to last indefinitely, or will such projects have to be implemented within a certain period?</p> <p>If the Exclusion Norms are implemented, it is suggested that there should be a review period to ensure that projects are moving forward sustainably. (i.e., are the Norms giving rise to sustainable development?).</p>		<p>Should the facility not be constructed within 6 years of the registration number being issued the facility would need to be re-registered.</p> <p>The exclusion is not intended to have a time limit i.e. it is not intended to be only valid for a certain period in time. If amendments are required over time, this will be done through a legislative amendment process.</p> <p>This suggestion is noted.</p>
9.6	<b>Sasol South Africa Limited</b>	<p>"Non-compliance with this Norm constitutes an offence in terms of NEMA. What is the reasoning behind including a blanket offences provision in the Norms regulations. Contravention of ANY of the provisions of the notice is an offence, which has wide-reaching consequences and is unnecessary given the context of section 49A(1)(b) of the Act.</p>	This provision should be removed.	It is necessary to ensure that there is a deterrent to not meeting the requirements of the Norm and for not implementing the EMPr. Section 24G is not applicable to an exclusion from the requirement to obtain environmental authorisation (EA) as it only applies to commencement without an EA where the later is



	<b>STAKEHOLDER</b>	<b>COMMENT</b>	<b>RECOMMENDATION</b>	<b>RESPONSE</b>
				required. If the registration was issued based on incorrect information, the only remedy would be to revoke the registration and then the facility would need to be removed and the developer would be prosecuted.
<b>9.7</b>	<b>Savannah Environmental</b>	There is no consideration of impacts on the social environment. These relate to safety and security, impacts on land uses (especially for adjacent landowners who have conflicting land uses such as game farms or nature reserves), visual impacts, etc.		Safety and security issues can be managed through the mitigation measures in the EMPr. This is a topic identified in the minimum requirements of the EMPr. For impact on land uses of adjacent landowners where there is conflicting land use for either a nature reserve or game farm no mitigation other than moving the facility or no go would be acceptable if the landowner felt it was an incompatible land use.
<b>9.8</b>	<b>Savannah Environmental</b>	The required themes to be considered do not include RFI. This is particularly important within the Northern Cape where the location of the SKA is a consideration. It is noted that other associated infrastructure such as access roads would also be registered through this.	This should be included as a requirement for projects proposed in the Northern Cape to ensure compliance with the relevant legislation in this regard and confirmation of no objection for the project from SARAO. This is currently not required in terms of the EIA Regulations and should be specified.	The requirements for RFI silence in the SKA area is limited to the geographical boundaries of the SKA core area, there would be no commercial solar facilities developed in this area. The requirements to protect the SKA core area is contained in the Astronomy Geographic Advantage Act of 2007 and does not need to be duplicated through environmental legislation.
<b>9.9</b>	<b>Savannah Environmental</b>	Process. It is not clear whether landowner consent and pre-negotiation is required for linear components of the project such as roads.		Landowner consent is not required for the linear infrastructure but rather a letter of no objection as part of the pre-negotiation requirement. The footprint of the solar facility requires consent.

	<b>STAKEHOLDER</b>	<b>COMMENT</b>	<b>RECOMMENDATION</b>	<b>RESPONSE</b>
<b>9.10</b>	<b>Savannah Environmental</b>	The EMPr is only applicable for construction. It is suggested that an operational EMPr should also be required as many impacts such as erosion, alien plant invasion, impacts on watercourses as a result of sedimentation and spillages, and impacts from inappropriate waste management (such as disposal of broken panels) occur during operation.	These must be managed.	The listed activity related to renewable energy facilities is not an activity which has an operational component. Erosion is managed by a land owner to ensure that the integrity of the infrastructure is maintained, this would be the same for alien plant invasion it is a legal requirement to remove alien invasive plants, waste management of broken panels will be managed under the National Environmental Management: Waste Act, 2008 and will be disposed to an appropriate landfill site, which is currently the disposal method.
<b>9.11</b>	<b>Savannah Environmental</b>	There is no provision for the authority to include project-specific conditions as part of the registration. Will all requirements now be included in the approved EMPr for a project? Is the DFFE going to provide any additional conditions which should be included in the EMPr?		This Norm is intended to exclude the identified activities, therefore there is no intention to include conditions. The EMPr is to identify all mitigation measures and not for conditions. No conditions are anticipated.
<b>9.12</b>	<b>Mr M Theart</b>	While I understand that the rationale for the proposed exclusion is to expedite the development and extension of solar-powered energy in South Africa to address the electricity crisis the country is currently facing, I feel that the proposed exclusion could better discourage the development of solar photovoltaic (solar PV) facilities in natural or near-natural areas. In my view, this could be done by (1) requiring proponents to identify modified areas in area where its facility is proposed and to give reasons why those areas should not be selected at the development site; and (2)		The Norm has been amended to include the need to consider degraded areas as a first option for the location of solar PV facilities.  Offsets are required only as a last resort. This Norm attempts to ensure that development is undertaken on

	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
		<p>requiring proponents to offset its biodiversity impact if the development would have a significant residual impact on biodiversity in the area.</p>		<p>areas of low or medium environmental sensitivity, therefore an offset would not be appropriate for achieving the objective of this Norm.</p>
9.13	<p><b>Minerals Council South Africa</b></p>	<p>According to the notices, this exclusion relates to the development or expansion of a facility for the generation of electricity from solar photovoltaic technology and the development or expansion of battery storage facilities, associated with and integral to, the operation of the solar photovoltaic facility when developed in areas of "low" or "medium" environmental sensitivity as identified by the screening tool and when undertaken in compliance with the requirements contemplated in paragraphs 4, 5, 6 and 7 of the Norms. Page 4 of 6</p> <p>This is concerning for the mining industry because the proposed exclusion is based on parameters that might serve to prevent some mining sites classified as highly sensitive areas from being possible development sites. In some of the cases the areas were classified highly sensitive before mining activities commenced. In this instance reliance for decision making should be based solely on-site sensitivity verification and specialist evidence and motivation which is against environmental sensitivity rating by the tool.</p>	<p>Even though the use of the screening tool might find that an area is of low or medium sensitivity, the Environmental Assessment Practitioner (EAP) must do a site-specific verification inspection and compile a report to satisfy that all the environmental themes are addressed.</p> <p>This is required to ensure that issues that are relevant to all the relevant themes are satisfied.</p>	<p>It is highly unlikely that post mining areas would be identified as being highly sensitive after a site sensitivity verification inspection has been undertaken. A site sensitivity verification of the information generated by the screening tool is always required to confirm or dispute the environmental sensitivity identified.</p>

	<b>STAKEHOLDER</b>	<b>COMMENT</b>	<b>RECOMMENDATION</b>	<b>RESPONSE</b>
<b>9.14</b>	<b>CER</b>	While we and our clients accept and support the development of renewable energy on land already degraded by mining and industrial activities in keeping with just transition plan principles, we are still of the strong opinion that doing away with the EIA process is not an appropriate, or safe manner in which to expedite much-needed renewable electricity capacity, particularly with reference to the potential harms listed above. The risks of harm and prejudice to interested and affected parties outweigh any benefits of an expedited process in terms of the exclusion norm. We further emphasise that, predominantly, the delays in the deployment of clean energy lie with the need for policy certainty and electricity plans to provide for the needed volumes of clean energy; and expedited procurement of clean renewable energy projects.	We therefore recommend that the proposed exclusion norm be abandoned insofar as the concerns raised in these comments are not addressed, as it is not appropriate for corners to be cut on environmental assessments for projects with potential for negative environmental impacts through a nationwide blanket exemption from the EIA requirements.	The Norm is not being prepared merely to expedite renewables as the current EIA process is not the reason for delays in rolling out the REIPPPP. The Norm is being developed as a progression of the work that has been undertaken over the past 10 years to streamline the EIA process and to introduce new integrated environmental management tools to move away for the reliance on the EIA process. The DFFE does not believe that the development of the Norm and the exclusion of activities is cutting any corners and is putting the environment at any additional risks other than the inherent risk associated with any development.
<b>9.15</b>	<b>CER</b>	We echo the lack of authority we highlighted in clauses 6 and 7 and share the same concerns regarding the involvement of the competent authority in the amendment of the Environmental Management Programme during the construction phase.		<p>The comment is noted but not supported. NEMA makes provision for an exclusion and the Norm provides sufficient basis to allow for such an exclusion for a technology for which the impacts are well understood.</p> <p>The competent authority would not be involved in the amendment of the EMPr. Specialists would be providing the recommended mitigation measures and would be competent to identify what mitigation measures would be appropriate to protect the environment. Their professional integrity would depend on their work.</p>

	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
9.16	CER	<p>We wish to reiterate the comments we previously submitted on the screening tool seeing as the exclusion is still reliant on the initial reading of the screening tool in order to determine the sensitivity of the areas where projects will take place.</p> <p>The screening tool was developed as a means to gauge whether or not a proposed project would need an EIA to be conducted. If an EIA was found to be necessary, the screening tool would then provide for the type of EIA required, especially with regard to the level of detail that is required to be in the EIA.</p> <p>The screening tool, at the inception of a project, will determine the level of sensitivity of a project area based on a multitude of factors, including terrestrial, aquatic, agricultural, cultural heritage and palaeontology. This initial screening is not an intensive, on-site study, but rather constitutes a desktop study. Purely relying on the screening tool to reach conclusions about the potential significance of proposed activities will result in risks and unwanted environmental impacts that could otherwise have been avoided.</p> <p>Even for the purpose of screening, the screening tool cannot serve as a comprehensive tool to conduct a thorough screening of all environmental features. For example, essential information such as the presence of Protected Areas is often not picked up by the screening tool. Along with this, there</p>		<p>The initial screening is just to locate areas which could be considered and in which the site sensitivity must be verified through physical inspection.</p> <p>This is not a correct version of the objectives of the development of the screening tool. The screening tool was never intended to identify if an EIA would be required or not, this is the task of the EIA listing notices.</p> <p>The Norm does not rely on the screening tool to reach a conclusion about the potential significance of proposed activities, but requires the site sensitivity to be verified by specialists in the relevant themes.</p> <p>The information provided by the screening tool is always to be verified and is merely used as a starting point.</p> <p>Protected areas are updated on a quarterly basis on the screening tool as DFFE is the custodian for this data.</p>

	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
		<p>are spatial layers that the screening tool uses that should not be in an environmental screening process. We submit that the screening tool should be revised to excise spatial layers that do not add merit to environmental screening, pending such revision the screening tool's implementation as an environmental management instrument would be untimely.</p> <p>The foundation of this decision to adopt the screening tool as an environmental management instrument to exclude activities as per section 24(2)(a) and (b) of NEMA is based on the screening tool's assessment of the potential significance of impacts. While in some instances it can be argued that it may be appropriate to base all reliance on the sensitivity ratings, as provided for by the screening tool, it is inherently risky to anticipate and draw conclusions about the potential significance of proposed projects based solely on the screening tool.</p> <p>The screening tool was merely meant to function as a means to assist in the screening stage of the EIA process with the screening process being intended to determine which aspects of a proposed project merit greater inspection and which aspects can be safely excluded from further inspection. It is not up to standard as a blanket environmental management instrument.</p>		<p>Any new protected area proclaimed is therefore updated on the screening tool.</p> <p>The comment is noted but not supported the screening tool houses the best spatial data currently available and is updated on a regular basis.</p> <p>The screening tool is no longer to be adopted as an environmental management instrument.</p> <p>This is not a correct interpretation of the objective of the screening tool, this was never the intended purpose of the screening tool.</p>

	<b>STAKEHOLDER</b>	<b>COMMENT</b>	<b>RECOMMENDATION</b>	<b>RESPONSE</b>
9.17	Shangoni	The application/ registration fee/s should be indicated in the Registration Form and the Re-registration Form attached as Appendix A and B respectively.		There are no fees identified for the registration process.
9.18	Shangoni	Footnote number 4 states “..... published on the 22 March 2019 does to apply to this Norm .....”. Please confirm whether it supposed to read “does not apply” or “does apply”.		The footnote has been corrected.
9.19	Shangoni	Please specify whether the Environmental Management Programme (“EMPr”) must be done in accordance with Appendix 4 of the EIA Regulations of 2014, as amended.		There is no reference to Appendix 4 of the EIA Regulations, the guidance provided is provided in Appendix 10 of the Norm.
9.20	Landscape Dynamics	<p>Role players that normally plays an integral part in the EIA/BA process for solar PV facilities, such as Eskom, the Civil Aviation Authority, the SKA, Cape Nature in the Western Cape, tourism organisations, farmers’ associations, etc are deliberately excluded from the list of allowable IAPs. These IAPs all have very valid concerns if the proposed solar PVs / power lines impact on their projects which are, normally, successfully addressed during the EIA / BA process.</p> <p>It is completely unclear as to why highly affected government departments are excluded from the proposed public participation process. The way the Norm reads will simply ensure development that has unacceptable impact on certain resources are taking place– and this is impact that can easily be mitigate should the right role players are provided with time to comment.</p>	It is strongly recommended that the IAP register be compiled by the EAP so that comment received can guide the development in a sustainable manner.	<p>A new paragraph has been included which provides guidance on the consultation process to be undertaken, which identifies that the EAP/ES is to identify a list of parties to be consulted as suggested.</p> <p>Solar PV facilities have little impact on civil aviation infrastructure, and no impact in the geographical boundary of the SKA. Cape Nature, farmers association and tourism organisations have been identified as relevant affected parties in the new paragraph providing guidance on consultation.</p>

	<b>STAKEHOLDER</b>	<b>COMMENT</b>	<b>RECOMMENDATION</b>	<b>RESPONSE</b>
9.21	<b>Landscape Dynamics</b>	<p>Please clarify if this is a Construction or Life Cycle (Design &amp; Construction &amp; Operational) EMPr</p> <p>Finalising solar PV panel areas - What does this mean? Is this the final footprint of the proposed solar PV array? Must this be provided in a map? Why is the Norm concerned about the solar PV array layout but not the position of the BESS / O&amp;M Buildings / Substations? Or is it perhaps referring to bush clearing before construction can commence? Clarification is required.</p>		<p>There is no operational component in the listing of solar PV facilities, therefore the EMPr is only for construction as would be the case in the current EIA process.</p> <p>The finalisation of the solar PV panel area would be the clearing and preparation of the area. The maps are provided as part of the attachments required as part of the registration process and not in the EMPr which is to deal with mitigation.</p>
9.22	<b>Landscape Dynamics</b>	<p>Temporary site closure”, Please explain what is meant by this? What is required?</p>		<p>This would refer to site access during construction.</p>
9.23	<b>Landscape Dynamics</b>	<p>Visual Impact” and “Social economic impacts”. Is the idea that the EAP provide management actions to manage these impacts or are the services of specialists required? If this is being done by the EAP, only high level, general mitigation can be provided because this falls outside of the EAPs level of expertise.</p>		<p>It is intended that there would be a high level discussion only as these are impacts which are known for the technology as is the mitigation measures.</p>
9.24	<b>Landscape Dynamics</b>	<p>Further to the above comment, we note that the requirements and generic EMPr for substations and overhead transmission and distribution infrastructure, do not apply to sites which qualify for the proposed Norm. This is unfortunate given that the requirements associated with the Norm, are weaker than those specified in Government Notice 435 in Government Gazette 42323 of 22 March 2022.</p>	<p>We suggest that the Minister reconsider this aspect of the Schedule.</p>	<p>It would be very confusing to have both a generic EMPr and a site specific EMPr associated with the same facility. Therefore, only one EMPr is to be submitted and that EMPr must be a site specific EMPr associated with all aspects of the facility. The EMPr is to be prepared by a registered EAP based on information provided by the relevant specialists and signed off by both professionals.</p>



	<b>STAKEHOLDER</b>	<b>COMMENT</b>	<b>RECOMMENDATION</b>	<b>RESPONSE</b>
9.25	BirdLife SA	There appears to be an error in footnote 4 on page 9 which refers to the generic EMPR for substations and overhead transmission and distribution infrastructure. We assume that this footnote is meant to say that the generic EMPR "does not apply to this Norm...".		The footnote has been amended.
9.26	BirdLife SA	<p>We welcome the fact that the Schedule is explicit, in section 9, about the Appeal Regulations being applicable to administrative decisions to register sites, as required in terms of the Constitution and the Promotion of Administrative Justice Act (3 of 2000). That said, we maintain that the application of the normal assessment process would lessen the chance of appeals, which inevitably add time and costs to the process.</p> <p>Finally, and as indicated in our response to the former exclusion Notice, we would urge further consideration to how the exclusion will affect the requirements embedded in the REIPP programme, particularly the obligation for potential bidders to secure an environmental authorisation before submitting their bids.</p>	The specified timings in the Schedule would make this very difficult, if not impossible.	<p>The preference is noted but an exclusion is provided for in NEMA and is intended to be utilised for these applications, subject to specific conditions being in place.</p> <p>The comment is noted and engagement with lenders is underway through the Environmental One Stop Shop.</p>
<b>TRANSITIONAL ARRANGEMENTS</b>				
10.0				
<b>APPENDIX A</b>				
11.0	CER	We note that Appendix A – registration form – refers to consideration of the form and application by the competent authority. Notably, however, this is not provided for in the provisions of the proposed exclusion.	This should be addressed for consistency and certainty.	Each competent authority will decide on the form, the template provides a minimum content that would be required.

	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
11.1	CER	<p>The screening tool was developed as a means to gauge whether or not a proposed project would need an EIA to be conducted. If an EIA was found to be necessary, the screening tool would then provide for the type of EIA required, especially with regard to the level of detail that is required to be in the EIA.</p> <p>The screening tool, at the inception of a project, will determine the level of sensitivity of a project area based on a multitude of factors, including terrestrial, aquatic, agricultural, cultural heritage and palaeontology. This initial screening is not an intensive, on-site study, but rather constitutes a desktop study. Purely relying on the screening tool to reach conclusions about the potential significance of proposed activities will result in risks and unwanted environmental impacts that could otherwise have been avoided.</p> <p>Even for the purpose of screening, the screening tool cannot serve as a comprehensive tool to conduct a thorough screening of all environmental features. For example, essential information such as the presence of Protected Areas is often not picked up by the screening tool. Along with this, there are spatial layers that the screening tool uses that should not be in an environmental screening process. We submit that the screening tool should be revised to excise spatial layers that do not add merit to environmental screening, pending such revision the screening tool's implementation as</p>		<p>This is not correct, the screening tool was never intended to identify if a project required an EA. The screening tool had as its objective the identification of environmental sensitivity.</p> <p>It is correct that not all areas have been inspected and that is the reason for requiring a site sensitivity verification to confirm the sensitivity of the areas as identified on the screening tool. There is no sole reliance on the information contained in the screening tool but rather this is used as a basis of departure from which verification, etc. is to be done.</p> <p>The screening tool provides an initial environmental screening which is required to be verified by a specialist.</p> <p>Protected areas are updated on a quarterly basis, this is information for which DFFE is the custodian.</p>

	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
		<p>an environmental management instrument would be untimely. The foundation of this decision to adopt the screening tool as an environmental management instrument to exclude activities as per section 24(2)(a) and (b) of NEMA is based on the screening tool's assessment of the potential significance of impacts. While in some instances it can be argued that it may be appropriate to base all reliance on the sensitivity ratings, as provided for by the screening tool, it is inherently risky to anticipate and draw conclusions about the potential significance of proposed projects based solely on the screening tool.</p> <p>The screening tool was merely meant to function as a means to assist in the screening stage of the EIA process with the screening process being intended to determine which aspects of a proposed project merit greater inspection and which aspects can be safely excluded from further inspection. It is not up to standard as a blanket environmental management instrument.</p>		<p>It is not intended to adopt the screening tool as an environmental management instrument, this was removed in the first round of commenting.</p> <p>The screening tool is not intended to be a blanket environmental management instrument, all information is to be confirmed through site inspection by a relevant specialist.</p>
11.2	BirdLife SA	We suggest that consideration be given to expanding Appendix 10 into a generic EMP. This would promote more consistent definition of impact management outcomes and actions across developments, and clarify auditing requirements.		A generic EMP for solar PV facilities is envisaged to be prepared in the next financial year.
<b>GENERAL</b>				
12.0	GDARD	Paragraph 9: General Preclusion	It is suggested that an insertion be made preventing the preclusion of	The Minister responsible for environmental affairs only has

	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
			other applicable legislation by the proponent.	authority provided by NEMA therefore legally it is not correct to refer to legislation that is not within this authority. The requirement to comply with other relevant legislation will remain applicable.
12.1	<b>Department of Agriculture, Environmental Affairs, Rural Development and Land Reform</b>	<p>Gap: amendments to footprints. To include both amendments to footprints and EMP. This is especially needed in situations where the amendment falls outside the footprint registered for initially. It is not clear what powers the department will have to i.t.o. monitoring and compliance. Some clarity is needed / to specify who the monitoring and compliance responsibility lies with relative to the competent authority doing the registration. E.g., should the Northern Cape be a commenting authority and DFFE the competent authority, could the DAERL still have monitoring and compliance abilities?</p> <p>The department has received complaints related to the construction of solar development that have resulted in dust pollution, impacts on grazing due to dust settling on grazing plants and dewatering of boreholes. Dust monitoring stations have been found to be placed incorrectly in spatial context, thus not being representative of its negative impacts where it is of concern. Where DFFE has been the EA issuing authority, developers ignore provincial EMIs and/or do not provide monitoring information when asked for it. Also, DFFE is not present in the province thus monitoring and compliance is not done regularly. DFFE is also</p>		<p>There is not possibility of expanding the footprint without registering a new project as there is a requirement to confirm the sensitivity through a site sensitivity verification inspection.</p> <p>The compliance responsibility resides with the competent authority. As there is cooperation between compliance inspectors agreements between compliance officials is possible where there is a lack of capacity.</p> <p>These are impacts which would be covered in the EMPr. It is a requirement for the developer to comply with the EMPr and as such the EMPr mitigation measures are enforceable. It is not possible for the proponent to ignore the EMIs.</p> <p>Could the provincial authority wish compliance of any project which is registered by DFFE, there can be agreements reached and compliance can be jointly monitored.</p>

	STAKEHOLDER	COMMENT	RECOMMENDATION	RESPONSE
		not skilled with respective provinces' ecological systems, thus limiting their ability to assess visually what to regard as significant impacts and what not. The consequence, increased probability of appeals and litigations.		