

## environmental affairs

Department  
Environmental Affairs  
REPUBLIC OF SOUTH AFRICA

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Tel (+ 27 12) 310 3011 - Fax (+ 27 12) 322 2682

NEAS Reference: DEA/EIA/0001431/2012

DEA Reference: 14/12/16/3/1/691

Enquiries: Samkelisiwe Dlamini

Telephone: 012-395-1783 Fax: 012-320-7530 E-mail: SDlamini@environment.gov.za

Mr J.F van Staden  
The South African National Road Agency Limited  
P.O. Box 27230  
Greenacres  
**PORT ELIZABETH**  
6057

Fax no: 041-398-3222  
Tel no: 041-398-3200

### PER FACSIMILE / MAIL

Dear Mr van Staden

**APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: GN R. 543/544/546; PROPOSED REHABILITATION OF THE REGIONAL ROUTE R61, SECTION 3, BETWEEN CRADOCK AND TARKASTAD WITHIN THE INXUBA YETHEMBA LOCAL MUNICIPALITY AND TSOLWANA LOCAL MUNICIPALITY IN EASTERN CAPE PROVINCE.**

With reference to the above application, please be advised that the Department has decided to grant authorisation. The environmental authorisation (EA) and reasons for the decision are attached herewith.

In terms of regulation 10(2) of the Environmental Impact Assessment Regulations, 2010 (the Regulations), you are instructed to notify all registered Interested and affected parties, in writing and within 12 (twelve) days of the date of the EA, of the Department's decision in respect of your application as well as the provisions regarding the submission of appeals that are contained in the Regulations.

Your attention is drawn to Chapter 7 of the Regulations, which prescribes the appeal procedure to be followed. This procedure is summarised in the attached document. Kindly include a copy of this document with the letter of notification to interested and affected parties.

Should the applicant or any other party wish to appeal any aspect of the decision a notice of intention to appeal must be lodged by all prospective appellants with the Minister, within 20 days of the date of the EA, by means of one of the following methods:

By facsimile: 0123207561;  
By post. Private Bag X447,  
Pretoria, 0001; or  
By hand. 2nd Floor, Fedsure Building, North Tower,  
Cnr. Lilian Ngoyi (Van der Walt) and Pretorius Streets,  
Pretoria.

If the applicant wishes to lodge an appeal, it must also serve a copy of the notice of intention to appeal on all registered interested and affected parties as well as a notice indicating where, and for what period, the appeal submission will be available for inspection, should you intend to submit an appeal

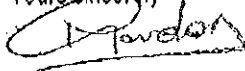
Please include the Department (*Attention: Director: Integrated Environmental Authorisations*) in the list of interested and affected parties, notified through your notification letter to interested and affected parties, for record purposes

**Appeals must be submitted in writing to:**

Mr Z Hassam Director Appeals and Legal Review, of this Department at the above mentioned addresses or fax number. Mr Hassam can also be contacted at:

Tel: 012-310-3271  
Email: [AppealsDirectorate@environment.gov.za](mailto:AppealsDirectorate@environment.gov.za)

The authorised activities shall not commence within twenty (20) days of the date of signature of the authorisation. Further, please note that the Minister may, on receipt of appeals against the authorisation or conditions thereof suspend the authorisation pending the outcome of the appeals procedure.

Yours sincerely,  


**Mr Mark Gordon**  
Chief Director: Integrated Environmental Authorisations  
Department of Environmental Affairs  
Date: 18.06.2013


CC:	Dr Norbert Klages	Arcus Gibb (Pty) Ltd.	Tel: 041-392-7500	Fax: 041-363-9300
	Mr Cira Ngelu	Eastern Cape DEDEA	Tel: 045-808-4000	Fax: 045-838-3981
	Mr Mzwandile Tantsi	Inxuba Yethemba Local Municipality	Tel: 048-801-5000	Fax: 048-881-1421
	Mr Similo Deyi	Tsolwana Local Municipality	Tel: 045-846-0033	Fax: 045-846-0025
	Mr S Malaza	Compliance Monitoring (DEA)	Tel: 012-310-3397	Fax: 012-320-5744

**APPEALS PROCEDURE IN TERMS OF CHAPTER 7 OF THE NEMA EIA REGULATIONS, 2010 (THE REGULATIONS) AS PER GN R. 543 OF 2010 TO BE FOLLOWED BY THE APPLICANT AND INTERESTED AND AFFECTED PARTIES UPON RECEIPT OF NOTIFICATION OF AN ENVIRONMENTAL AUTHORISATION (EA)**

APPLICANT	INTERESTED AND AFFECTED PARTIES (IAPs)
1. Receive EA from the relevant Competent Authority (the Department of Environmental Affairs (DEA))	1. Receive EA from Applicant/Consultant.
2. Within 12 days of date of the EA notify all IAPs of the EA and draw their attention to their right to appeal against the EA in terms of Chapter 7 of the Regulations.	2. N/A
3. If you want to appeal against the EA, submit a notice of intention to appeal within 20 days of the date of the EA with the Minister of Water and Environmental Affairs (the Minister).	3. If you want to appeal against the EA, submit a notice of intention to appeal within 20 days of the date of the EA with the Minister of Water and Environmental Affairs (the Minister).
4. After having submitted your notice of intention to appeal to the Minister, provide each registered IAP with a copy of the notice of intention to appeal within 10 days of lodging the notice.	4. After having submitted your notice of intention to appeal to the Minister, provide the applicant with a copy of the notice of intention to appeal within 10 days of lodging the notice.
5. The Applicant must also serve on each IAP <ul style="list-style-type: none"> <li>• a notice indicating where and for what period the appeal submission will be available for inspection</li> </ul>	5. Appellant must also serve on the Applicant within 10 days of lodging the notice. <ul style="list-style-type: none"> <li>• a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.</li> </ul>
6. The appeal must be submitted in writing to the Minister within 30 days after the lapsing of the period of 20 days provided for the lodging of the notice of intention to appeal.	6. The appeal must be submitted to the Minister within 30 days after the lapsing of the period of 20 days provided for the lodging of the notice of intention to appeal.
7. Any IAP who received a notice of intention to appeal may submit a responding statement to that appeal to the Minister within 30 days from the date that the appeal submission was lodged with the Minister.	7. An Applicant who received notice of intention to may submit a responding statement to the appeal to the Minister within 30 days from the date that the appeal submission was lodged with the Minister.

**NOTES:**

1. **An appeal against a decision must be lodged with:-**
  - a) the Minister of Water and Environmental Affairs if the decision was issued by the Director- General of the Department of Environmental Affairs (or another official) acting in his/ her capacity as the delegated Competent Authority;
  - b) the Minister of Justice and Constitutional Development if the applicant is the Department of Water Affairs and the decision was issued by the Director- General of the Department of Environmental Affairs (or another official) acting in his/ her capacity as the delegated Competent Authority;
  
2. **An appeal lodged with:-**
  - a) the Minister of Water and Environmental Affairs must be submitted to the Department of Environmental Affairs;
  - b) the Minister of Justice and Constitutional Development must be submitted to the Department of Environmental Affairs;
  
3. **An appeal must be:-**
  - a) submitted in writing;
  - b) accompanied by:
    - a statement setting out the grounds of appeal;
    - supporting documentation which is referred to in the appeal and
    - a statement that the appellant has complied with regulation 62 (2) or (3) together with copies of the notices referred to in regulation 62.





environmental affairs

Department:  
Environmental Affairs  
REPUBLIC OF SOUTH AFRICA

## Environmental Authorisation

In terms of regulation 36 of the Environmental Impact Assessment Regulations, 2010

Rehabilitation of the regional road R61, section 3, between Cradock (km 24.2) and Tarkastad (km 75.0) within the Inxuba Yethemba Local Municipality and Tsolwana Local Municipality in Eastern Cape Province

Christ Hani District Municipality

Authorisation register number:	14/12/16/3/3/1/691
NEAS reference number:	DEA/EIA/0001431/2012
Last amended:	First issue
Holder of authorisation:	SOUTH AFRICAN NATIONAL ROADS AGENCY LIMITED
Location of activity:	EASTERN CAPE PROVINCE: Within Inxuba Yethemba Local Municipality and Tsolwana Local Municipality

This authorisation does not negate the holder of the authorisation's responsibility to comply with any other statutory requirements that may be applicable to the undertaking of the activity.

## Decision

The Department is satisfied, on the basis of information available to it and subject to compliance with the conditions of this environmental authorisation, that the applicant should be authorised to undertake the activities specified below.

Non-compliance with a condition of this authorisation may result in criminal prosecution or other actions provided for in the National Environmental Management Act, 1998 and the EIA regulations.

Details regarding the basis on which the Department reached this decision are set out in Annexure 1.

## Activities authorised

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act 107 of 1998) and the Environmental Impact Assessment Regulations, 2010 the Department hereby authorises –

### **SOUTH AFRICAN NATIONAL ROADS AGENCY LIMITED**

with the following contact details –

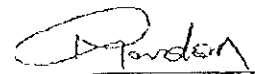
Mr. J.F van Staden  
The South African National Agency Limited  
P.O. Box 27230  
Greenacres  
**PORT ELIZABETH**  
6057

Tel: (041) 398 3200

Fax: (041) 398 3222

to undertake the following activities (hereafter referred to as "the activity") indicated in Listing Notices 1 and 3 (GN R. 544, 545 & 546):

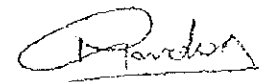
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Listed activities	Activity/Project description
<p><u>GN R. 544 Item 39:</u>                      The expansion of:                      (iii) bridges                      Within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, where such expansion will result in an increased development footprint</p>	<p>Bridge-river crossing along the project will be widened to suit the road cross section</p>
<p><u>GN R. 546 Item 19:</u>                      The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre                      (a) In Eastern Cape Province                      (ii) outside urban areas, in:                      (ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or bioregional plans</p>	<p>Most of the proposed road works are situated inside a Critical Biodiversity Area (category: terrestrial CBA 2 – elsewhere termed as 'important CBA') as mapped by the Eastern Cape Biodiversity Conservation Plan 2007</p>
<p><u>GN R. 546 Item 24:</u>                      The expansion of                      (d) infrastructure where the infrastructure will be expanded by 10 square metres or more where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse                      (a) In Eastern Cape Province                      (ii) Outside urban areas, in:                      (ee) Critical Biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans</p>	<p>Most of the proposed bridge works are situated inside a Critical Biodiversity Area (category: terrestrial CBA 2 – elsewhere termed as 'important CBA') as mapped by the Eastern Cape Biodiversity Conservation Plan 2007</p>

as described in the Basic Assessment Report (BAR) dated March 2013 at:

regional road R61, section 3	Latitude	Longitude
Starting point of activity	32°04'59"S	25°50'34"E
Middle point of activity	31°56'43"S	26°02'13"E
End point of activity	31°59'59"S	26°15'01"E



- for the proposed rehabilitation of the regional road R61, section 3, between Cradock (km 24.2) and Tarkastad (km 75.0) with the associated infrastructure within the Inxuba Yethemba Local Municipality and Tsolwana Local Municipality in the Eastern Cape Province, hereafter referred to as "the property".

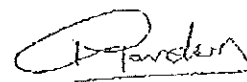
The infrastructure associated with this facility includes:

- Five borrow pits; and
- One hard rock quarry along R61.

## Conditions of this Environmental Authorisation

### Scope of authorisation

1. The proposed rehabilitation of the regional road R61 with coordinates above, section 3, between Cradock (km 24.2 and Tarkastad (km 75.0) with its associated infrastructure is approved.
2. Authorisation of the activity is subject to the conditions contained in this authorisation, which form part of the environmental authorisation and are binding on the holder of the authorisation.
3. The holder of the authorisation is responsible for ensuring compliance with the conditions contained in this environmental authorisation. This includes any person acting on the holder's behalf, including but not limited to, an agent, servant, contractor, sub-contractor, employee, consultant or person rendering a service to the holder of the authorisation.
4. The activities authorised may only be carried out at the property as described above.
5. Any changes to, or deviations from, the project description set out in this authorisation must be approved, in writing, by the Department before such changes or deviations may be effected. In assessing whether to grant such approval or not, the Department may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviations and it may be necessary for the holder of the authorisation to apply for further authorisation in terms of the regulations.
6. This activity must commence within a period of 03 years from the date of issue of this authorisation. If commencement of the activity does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken.



7. Commencement with one activity listed in terms of this authorisation constitutes commencement of all authorised activities.
8. The holder of an environmental authorisation must notify the competent authority of any alienation, transfer and change of ownership rights in the property on which the activity is to take place.

#### **Notification of authorisation and right to appeal**

9. The holder of the authorisation must notify every registered interested and affected party, in writing and within 12 (twelve) calendar days of the date of this environmental authorisation, of the decision to authorise the activity.
10. The notification referred to must –
  - 10.1. specify the date on which the authorisation was issued;
  - 10.2. inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the Environmental Impact Assessment Regulations, 2010;
  - 10.3. advise the interested and affected party that a copy of the authorisation will be furnished on request; and
  - 10.4. give the reasons of the competent authority for the decision.
11. The holder of the authorisation must publish a notice –
  - 11.1. informing interested and affected parties of the decision;
  - 11.2. informing interested and affected parties where the decision can be accessed; and
  - 11.3. drawing the attention of interested and affected parties to the fact that an appeal may be lodged against this decision in the newspaper(s) contemplated and used in terms of regulation 54(2)(c) and (d) and which newspaper was used for the placing of advertisements as part of the public participation process.

#### **Management of the activity**

12. The Environmental Management Programme (EMPr) submitted as part of the Application for EA is hereby approved. This EMPr must be implemented and adhered to.

#### **Monitoring**

13. The applicant must appoint a suitably experienced independent Environmental Control Officer (ECO) for the construction phase of the development that will have the responsibility to ensure that
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the mitigation/rehabilitation measures and recommendations referred to in this authorisation are implemented and to ensure compliance with the provisions of the EMPr.

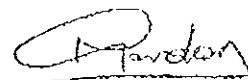
- 13.1. The ECO shall be appointed before commencement of any authorised activities.
- 13.2. Once appointed, the name and contact details of the ECO must be submitted to the *Director: Compliance Monitoring* of the Department
- 13.3. The ECO shall keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
- 13.4. The ECO shall remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is ready for operation.
- 13.5. Records relating to monitoring and auditing must be kept on site and made available for inspection to any relevant and competent authority in respect of this development.

#### **Recording and reporting to the Department**

14. All documentation e.g. audit/monitoring/compliance reports and notifications, required to be submitted to the Department in terms of this authorisation, must be submitted to the *Director: Compliance Monitoring* at the Department.
15. The holder of the authorisation must submit an environmental audit report to the Department within 30 days of completion of the construction phase (i.e. within 30 days of site handover) and within 30 days of completion of rehabilitation activities.
16. The environmental audit report must indicate the date of the audit, the name of the auditor and the outcome of the audit in terms of compliance with the environmental authorisation conditions as well as the requirements of the EMPr
17. Records relating to monitoring and auditing must be kept on site and made available for inspection to any relevant and competent authority in respect of this development.

#### **Commencement of the activity**

18. The authorised activity shall not commence within twenty (20) days of the date of signature of the authorisation.
  19. An appeal under section 43 of the National Environmental Management Act (NEMA), Act 107 of 1998 (as amended), does not suspend an environmental authorisation or exemption, or any provisions or conditions attached thereto, or any directive, unless the Minister, MEC or delegated organ of state directs otherwise.
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20. Should you be notified by the Minister of a suspension of the authorisation pending appeal procedures, you may not commence with the activity until such time that the Minister allows you to commence with such an activity in writing.

#### **Notification to authorities**

21. Fourteen (14) days written notice must be given to the Department that the activity will commence. Commencement for the purposes of this condition includes site preparation. The notice must include a date on which it is anticipated that the activity will commence, as well as a reference number. This notification period may coincide with the notice of intent to appeal period.

#### **Operation of the activity**

22. Fourteen (14) days written notice must be given to the Department that the activity operational phase will commence.

#### **Site closure and decommissioning**

23. Should the activity ever cease or become redundant, the applicant shall undertake the required actions as prescribed by legislation at the time and comply with all relevant legal requirements administered by any relevant and competent authority at that time.

#### **Specific conditions**

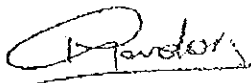
24. A section of the proposed road upgrade traverses through a terrestrial Critical Biodiversity Area 2/Ecological Support Area; therefore care must be taken to ensure that construction activities are limited to the confines of the existing road reserve. Where additional intact natural vegetation may require removal during construction (greenfields clearing for temporary roads and/or borrow pit and quarry mining); the affected areas must be surveyed by a qualified ecological specialist before commencement of construction activities to determine permit requirements and additional mitigation measures.
25. Permission to destroy and remove any protected plant species or animals must be obtained from the relevant authorities.
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**General**

26. A copy of this authorisation and the approved EMPr must be kept at the property where the activity/ will be undertaken. The authorisation and approved EMPr must be produced to any authorised official of the Department who requests to see it and must be made available for inspection by any employee or agent of the holder of the authorisation who works or undertakes work at the property.
27. The holder of the authorisation must notify both the *Director: Integrated Environmental Authorisations* and the *Director: Compliance Monitoring* at the Department, in writing and within 48 (forty eight) hours, if any condition of this authorisation cannot be or is not adhered to. Any notification in terms of this condition must be accompanied by reasons for the non-compliance.
28. National government, provincial government, local authorities or committees appointed in terms of the conditions of this authorisation or any other public authority shall not be held responsible for any damages or losses suffered by the applicant or his successor in title in any instance where construction or operation subsequent to construction be temporarily or permanently stopped for reasons of non-compliance by the applicant with the conditions of authorisation as set out in this document or any other subsequent document emanating from these conditions of authorisation.

Date of environmental authorisation: 18.06.2013



**Mr Mark Gordon**  
**Chief Director: Integrated Environmental Authorisations**  
**Department of Environmental Affairs**

## Annexure 1: Reasons for Decision

### 1. Information considered in making the decision

In reaching its decision, the Department took, *inter alia*, the following into consideration -

- a) The information contained in the BAR dated March 2013;
- b) The comments received from, organs of state and interested and affected parties as included in the BAR dated March 2013;
- c) Mitigation measures as proposed in the BAR dated March 2013 and the EMPr;
- d) The information contained in the specialist studies contained within Appendix D of the BAR; and
- e) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998).

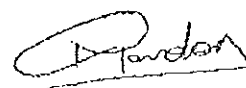
### 2. Key factors considered in making the decision

All information presented to the Department was taken into account in the Department's consideration of the application. A summary of the issues which, in the Department's view, were of the most significance is set out below.

- a) The findings of all the specialist studies conducted and their recommended mitigation measures.
- b) The BAR dated March 2013 identified all legislation and guidelines that have been considered in the preparation of the BAR dated March 2013.
- c) The methodology used in assessing the potential impacts identified in the BAR dated March 2013 and the specialist studies have been adequately indicated.
- d) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2010 for public involvement.

### 3. Findings

After consideration of the information and factors listed above, the Department made the following findings -



- a) The identification and assessment of impacts are detailed in the BAR dated March 2013 and sufficient assessment of the key identified issues and impacts have been completed.
- b) The procedure followed for impact assessment is adequate for the decision-making process.
- c) The proposed mitigation of impacts identified and assessed adequately curtails the identified impacts.
- d) The information contained in the BAR dated March 2013 is accurate and credible.
- e) EMPr measures for the pre-construction, construction and rehabilitation phases of the development were proposed and included in the BAR and will be implemented to manage the identified environmental impacts during the construction process.

In view of the above, the Department is satisfied that, subject to compliance with the conditions contained in the environmental authorisation, the proposed activity will not conflict with the general objectives of integrated environmental management laid down in Chapter 5 of the National Environmental Management Act, 1998 and that any potentially detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable levels. The environmental authorisation is accordingly granted.

