

Other licences, permits and authorisations required to construct and operate renewable energy electricity generation infrastructure

	Licence / permit required	Basis for the requirement	Competent / regulatory authority	Timing for the application / deadline and competent authority for decision making	Public consultation required/ other comments
<b>ENVIRONMENTAL APPROVALS AND OTHER AUTHORISATIONS</b>					
1	<b>Environmental authorisation</b>	<p>Section 24 of the National Environmental Management Act 107 of 1998 (<b>NEMA</b>), read with listed activities specified in Listing Notices 1<sup>1</sup>, 2,<sup>2</sup> and 3<sup>3</sup>.</p> <p>An environmental authorisation is required for the development of facilities or infrastructure for the generation of electricity:</p> <p>(i) from a RE resource where the electricity output is more than 10 MW&lt;20 MW or the output is 10 MW or less but the extent of the facility is &gt;1hectare unless it is a PV within an urban area or on existing infrastructure;</p> <p>(ii) from an RE resource where the output is 20 MW or more, excluding PV installations within an urban area or on</p>	Department of Environmental Affairs, Forestry and Fisheries. <sup>4</sup>	<p>The statutory prescribed timelines for deciding an EA following the S&amp;EIR application process is <b>10 – 12 months</b>. If an appeal is noted, it may take up to <b>15 months</b> to decide an application for an EA.</p> <p>Note:</p> <p>Where the Project falls within the Renewable Energy Development Zone,<sup>5</sup> an EA for certain activities may be obtained within 57 days of receiving the application.</p> <p>For projects falling outside the Renewable Energy Development Zone, timing is dependent on a number of factors including level of objection during the public participation which</p>	A public participation process is provided for under regulations 19 and 20 of the EIA Regulations, and requires specialist circulars and applications, etc., to be subjected to public participation for a period of at least 30 days.

<sup>1</sup> Environmental Impact Assessment Regulations Listing Notice 1 of 2014, published under Government Notice R983 in *Government Gazette* 32828 on 4 December 2014 (**Listing Notice 1**).

<sup>2</sup> Environmental Impact Assessment Regulations Listing Notice 2 of 2014, published under Government Notice R984 in *Government Gazette* 32828 on 4 December 2014 (**Listing Notice 2**).

<sup>3</sup> Environmental Impact Assessment Regulations Listing Notice 1.

<sup>4</sup> Section 24C(2)(1) of NEMA, and the EIA Regulations, 2014.

<sup>5</sup> Eleven Renewable Energy Development Zones have been identified: Identification of geographical areas of strategic importance for the development of large-scale wind and solar photovoltaic energy facilities published under Government Notice 114 *Government Gazette* 41445 on 16 February 2018 and 2021.

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		existing infrastructure; and  (iii) from a non-RE source where the output is (i) >10 MW but <20 MW or the output is 10 MW or less but the extent of the facility is in excess of 1 hectare or (ii) where the output is 20 MW or more.		could extend time periods set out above.	
2	<b>Water Use Licence / Entitlements</b>  Authorisation for section 21(c) and (i) water uses	Water use will be one of the matters considered in the environmental impact assessment process.  In terms of section 21 of the National Water Act 36 of 1998 ( <b>NWA</b> ), a water use includes:  (a) Impeding or diverting the flow of water in a watercourse; and  (b) Altering the bed, banks and course of characteristics of a watercourse.  In terms of section 22 of the NWA, this may be authorised under the General Authorisation in terms of section 39 of the NWA for Water Uses as defined in section 21(c) and section 21(i).	Department of Water Affairs and Sanitation	Where a water use falls within the General Authorisation in terms of section 39 of the NWA for Water Uses as defined in section 21(c) and section 21(i), the water use must be registered. Certificate of registration to be issued within 30 working days of the registration.  If a Water Use License is required, the latest policy is 90 days for approval but in practice this may take up to 3 years or longer.	No.
3	<b>Biodiversity Permit for a restricted activity</b>  The need for such permits will be established in the	Section 87 of the National Environmental Management: Biodiversity Act 10 of 2004 ( <b>Biodiversity Act</b> ) prohibits the	The MEC for environmental affairs / the Minister for Environmental Affairs	20-34 working days.  Note this would generally be obtained just prior to construction and so would not need to	

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	course of the environmental impact assessment and would be a condition of the environmental authorisation.	carrying out of a "restricted activity" involving specimens of listed threatened or protected species; alien species; or listed invasive species without a permit issued in terms of chapter 7. <sup>6</sup>		be sought ahead of time.	
4	<p><b>Heritage Resources Assessment and Permits</b></p> <p>This assessment would be undertaken in the course of the environmental impact assessment and would be a condition of the environmental authorisation.</p>	<p>In terms of the National Heritage Resources Act 25 of 1999 (the <b>NHRA</b>), permits may be required if the Project will impact any heritage resource. <sup>7</sup></p> <p>Section 38(1) of the NHRA provides that any person who intends undertaking certain specified developments must notify the responsible heritage resources authority and furnish it with details regarding the proposed development. Such specified developments include "<i>the construction of a road, wall, <u>powerline</u>, pipeline, canal or other similar form of linear development or <u>barrier exceeding 300m in length</u></i>" (our emphasis). <sup>8</sup></p>	<p>The South African Heritage Resources Agency (<b>SAHRA</b>) has primary responsibility.</p> <p>The responsible heritage resources authority may be national, provincial or local depending on the nature of the heritage resources affected and the delegation entailed and would need to be identified based on the particular project.</p>	<p>Assessment undertaken as part of the environmental authorisation process.</p> <p>Where a specific permit is required i.e. for the relocation of graves, the timing and requirements of the application are determined in respect of the specific permit requirements.</p>	<p>Public participation and consultation with SAHRA.</p> <p>Determined in accordance with the requirements for each permit required.</p>
<b>LAND AND SITE RELATED AUTHORISATIONS AND CONSENTS</b>					
5.	<b>Subdivision of Agricultural Land Act 70 of 1970</b>	Consent of the Minister of Agriculture, Land Reform and Rural Development ( <b>Minister of Land</b> ) required in	Minister of Land	<p><b>Timing</b></p> <p>Not specified, may take between 3 to 6 months.</p>	No public participation provided for, but consultation with the "Provincial

<sup>6</sup> Section 87 of the Biodiversity Act.

<sup>7</sup> Meaning "*any place or object of cultural significance*" under the NHRA, as protected and managed under the NHRA Chapter II.

<sup>8</sup> Section 27(18) of the NRHA and section 38(1)(a).

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		<p>terms of sections 3 and 4, for a lease of a portion of farm land longer than 10 years.</p> <p>The Minister of Land's consent is also required for</p> <p>(a) the sale or advertising of sale of agricultural land, if not purposes of a mine and</p> <p>(b) the subdivision of agricultural land.</p>		<p><b>Key inputs</b></p> <p>(a) <b>Owner of the land</b> must make application for consent.</p> <p>(b) <b>Form, plans, documents</b> and information determined by the Minister of Land.</p> <p>(c) <b>Consultation</b> with the "Provincial Administrator" or relevant MEC required.</p>	Administrator" or relevant MEC is required.
6.	<b>National Building Regulations and Standards Act 103 of 1977</b>	Section 4: Approval of the building plans is required prior to construction.	Local authority (municipality).	<p><b>Timing</b></p> <p>Within 30 days if the building is smaller than 500m<sup>2</sup> and 60 days if it is larger.</p> <p>Note this would generally be obtained prior to construction and so would not need to be sought ahead of time.</p> <p><b>Key inputs</b><sup>9</sup></p> <p>(a) <b>Application</b> for approval shall be in writing on a form made available by the local authority in question.</p> <p>(b) <b>Information required</b> includes site plan; layout drawings; a fire</p>	Per municipal by-laws. These may differ from municipality to municipality, however, there is often a general requirement to publish plans and submit to neighbouring property owners for submission of comment or objections.

<sup>9</sup> Section 4 of the National Building Regulations and Building Standards Act 103 of 1977 and Regulation A2 of the Regulations under section 17(1) published under Government Notice R2378 in *Government Gazette* 12780 on 12 October 1990.

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				installation drawing; drainage installation drawing; particulars of any existing building which is to be demolished and details of the method of demolition to be used.	
7.	<p><b>Municipal site-land specific authorisations</b></p> <p>(a) zoning of the land;</p> <p>(b) municipal consents required;</p> <p>(c) Conservation of Agricultural Resources Act 43 of 1983; and</p> <p>(d) existing rights in the Title Deeds.</p>	The applicability of additional consents in terms of this Act would need to be considered once the Project site has been identified.	Municipality, land owner or rights holder	Differs from municipality to municipal.	There is often a need to publish for public comment and for local communities to provide inputs or objections.
8.	<p><b>OTHERS</b></p> <p>National Forests Act 84 of 1988.</p>	The applicability of additional consents in terms of this Act would need to be considered once the Project site has been identified.	N/A.	Unknown.	Unknown.
<b>OTHER AUTHORISATIONS</b>					
9.	<p><b>Astronomy Geographic Advantage Act 21 of 2007, (AGA Act) permit</b></p> <p>The Minister of Science and Technology (<b>Minister of Science</b>) may declare certain areas as central astronomy</p>	<p>Permit or exemption may be required, confirm once exact location of facility known.</p> <p>No person may construct, install, operate or use any electrical infrastructure and electrical equipment within the</p>	The applicable management authority as assigned by the Minister of Science in terms of section 15 of the AGA Act (i.e. the Astronomy Management Authority within	<p><b>Timing</b></p> <p>If all the required information is provided, a permit may be issued within 60 days.</p> <p><b>Key inputs</b></p> <p>(a) <b>Form</b> obtained from the</p>	<p>No public participation provided for.</p> <p>New permit required if any design retrofits or alterations that increase the level of electromagnetic</p>

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	<p>advantage areas (the Sutherland Central Astronomy Advantage Area and the Karoo Central Astronomy Advantage Area) and core astronomy areas comprising a 3-kilometre radius around each of the Southern African Large Telescope, MeerKAT radio telescope and Square Kilometre Array (SKA) radio telescope have been declared.</p>	<p>Karoo Central Astronomy Advantage Area<sup>10</sup> unless the management authority has issued a permit in relation thereto or it has been specifically exempted in terms of the Regulations.</p> <p>A permit is required if the electrical infrastructure and electrical equipment has an electrical power rating of greater than 100 kVA and within a distance of 30 km from the nearest SKA Infrastructure Territory, <sup>11</sup> or within a distance of 50 km for electricity generation by means of wind turbines. <sup>12</sup></p> <p>Permission of management authority required to enter into, reside in, have in their possession any interference source, mobile radio frequency interference source or short range device, unless the source or device has been turned off or perform any activity which may be harmful to astronomy and related scientific endeavours in core astronomy areas.</p>	<p>the Department of Science and Technology).</p>	<p>management authority</p> <p>(b) <b>Information</b> listed and described in a schedule also to be obtained from the management authority</p>	<p>emissions / radio transmission are carried out.</p>

<sup>10</sup> “Karoo Core Astronomy Advantage Area” means the Karoo Core Astronomy Advantage Area declared in Notice No. 723 in *Government Gazette* No. 33462 on 20 August.

<sup>11</sup> “SKA Infrastructure Territory” means the protection corridors within the Karoo Central Astronomy Advantage Area 1 as depicted and described in Annexure A to these Schedule D Regulations and the 20km radius circular area around the SKA Virtual Centre.

<sup>12</sup> Regulation 3 of the Schedule D Regulations under the AGA Act.

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10.	<b>Civil Aviation Act 13 of 2009 approval for a wind facility</b>	<p>Regulation 91.01.10 of the Civil Aviation Regulations state that no person may through an act or omission endanger the safety of an aircraft or person. Further, no person may cause, by any means, a beam of light or other energy source, either visible or not, to be emitted towards any aircraft or air traffic control tower or any person therein such that it would be the potential for causing blindness or otherwise adversely affecting the ability of the person to carry out their duties. Regulation 139.01.30 includes that buildings or other objects which will constitute an obstruction or potential hazard to aircraft moving in the navigable air space in the vicinity of an aerodrome, or navigation aid or which will adversely affect the performance of the radio navigation or instrument landing systems must not be erected without prior approval of the Director of the South African Civil Aviation Authority <sup>13</sup></p> <p>Licensing conditions may include provisions</p>	South African Civil Aviation Authority ( <b>SACAA</b> ).	<p>Within 30 working days of receiving all necessary information, fees and additional information / assessments if required.</p> <p>Note this would generally be obtained prior to construction and so would not need to be sought ahead of time.</p> <p><b>Key inputs</b></p> <p>(a) <b>Form CA139-27</b> to be completed <sup>14</sup></p> <p>(b) <b>Height and co-ordinates</b> of structure required</p>	The SACAA may require consultation.

<sup>13</sup> Regulation 139.01.30.

<sup>14</sup> Obstacle Application Process available at: <http://www.caa.co.za/Documents/Obstacle%20Application%20Process%2020180105.pdf>.

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		regarding marking of the obstacles.			
11.	<b>Mineral Petroleum Resources Development Act 28 of 2002 (MPRDA)- Section 53 approval</b>	<p>Approval from the Minister of Mineral Resources and Energy is required where any person intends to use the surface of any land in any way which may be contrary to an object of the Mineral Petroleum Resources Development Act.<sup>15</sup></p> <p><b>Approval is not required if the project site is outside a mining area.</b></p> <p><b>If project site is with the mining right area, the approval is not required where the use of land is for farming (or any use incidental thereto); lies within an approved town-planning scheme; or any other use which the Minister may determine by notice in the <i>Government Gazette</i>.<sup>16</sup></b></p>	Minister of Mineral Resources and Energy (application submitted to the Regional Manager).	<p>An application for approval does not have a prescribed timeframe but, in our experience, assuming that no interests of other parties are adversely affected by the application, it can take anything from a few weeks to a few months.</p> <p>From experience, it does not take less than six months to obtain approval.</p>	<p> Holders of prospecting, mining, exploration or production rights within a two-kilometre radius of the application area must be consulted.</p>
12.	<b>Electronic Communications Act 36 of 2005 (ECA)</b>	<p>Various approvals under ECA may be required depending on the nature of the project.</p> <p>Where an electronic communications network facility<sup>17</sup></p>	Generally, the Independent Communications Authority of South Africa	Depends on approval application required.	Depends on approval application required.

<sup>15</sup> Section 53(1) of the MPRDA.

<sup>16</sup> Section 53(2) of the MPRDA.

<sup>17</sup> The term “*electronic communications facility*” includes but is not limited to any--  
(a) wire, including wiring in multi-tenant buildings;  
(b) cable (including undersea and land-based fibre optic cables);  
(c) antenna;  
(d) mast;



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		<p>passes over any private property or interferes with a building to be erected on the property, satisfactory proof that a building is actually to be erected must be provided and the licensee must deviate or alter the positioning of the electronic communications facility in order to remove all obstacles to building operations. <sup>18</sup></p> <p>The owner of private property must notify an electronic communications network service licensee at least 28 days before an alteration or deviation (in respect of the positioning of an electronic communications facility), is affected. <sup>19</sup></p>			

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- (e) satellite transponder;  
(f) circuit;  
(g) cable landing station;  
(h) international gateway;  
(i) earth station;  
(j) radio apparatus;  
(k) exchange buildings;  
(l) data centres; and  
(m) carrier neutral hotels,  
or other thing, which can be used for, or in connection with, electronic communications, including, where applicable-  
(i) collocation space;  
(ii) monitoring equipment;  
(iii) space on or within poles, ducts, cable trays, manholes, hand holds and conduits; and  
(iv) associated support systems, sub-systems and services, ancillary to such electronic communications facilities or otherwise necessary for controlling connectivity of the various electronic communications facilities for proper functionality, control, integration and utilisation of such electronic communications facilities”.

<sup>18</sup> Section 25(2) of the ECA.

<sup>19</sup> Section 25(3) of the ECA.

We set out the general timeline for obtaining an environmental authorisation below depending on the listed activity and whether a basic assessment or S&EIR process must be followed: <sup>20</sup>

Basic Assessment procedure	S&EIR
<p>Required for activities in Listing Notice 1 and 3 including for a facility</p> <p>(a) Where the output is more than 10 MW but less than 20 MW;</p> <p>(b) developed and the output is less than 10 MW but the facility covers more than 1 hectare; <sup>21</sup></p> <p>(c) expanded and the output is increased by 10 MW or more and the development footprint is increased; <sup>22</sup></p> <p>(d) expanded and irrespective of the amount by which the output is increased, the development footprint will increase by 1 hectare or more. <sup>23</sup></p>	<p>Required for activities in Listing Notice 2 including for a facility of more than 20 MW.</p>
<p>Application made to competent authority.</p>	<p>Application made to competent authority.</p>

<sup>20</sup> In terms of Regulation 3 of the EIA Regulations 2014:

*“(1) Subject to sub-regulations (2) and (3), when a period of days must in terms of these Regulations be reckoned from or after a particular day, that period must be reckoned as from the start of the day following that particular day to the end of the last day of the period, but if the last day of the period falls on a Saturday, Sunday or public holiday, that period must be extended to the end of the next day which is not a Saturday, Sunday or public holiday.*

*(2) For any action contemplated in terms of these Regulations for which a timeframe is prescribed, the period of 15 December to 5 January must be excluded in the reckoning of days.*

*(3) Unless justified by exceptional circumstances, as agreed to by the competent authority, the proponent and applicant must refrain from conducting any public participation process during the period of 15 December to 5 January.*

*(4) When a State department is requested to comment in terms of these Regulations, such State department must submit its comments in writing within 30 days from the date on which it was requested to submit comments and if such State department fails to submit comments within such 30 days, it will be regarded that such State department has no comments.*

*(5) Where a prescribed timeframe is affected by one or more public holidays, the timeframe must be extended by the number of public holiday days falling within that timeframe.*

*(6) The competent authority must acknowledge receipt of all applications and documents contemplated in regulations 16, 19, 21, 23, 29, 31 and 34 within 10 days of receipt thereof.*

*(7) In the event where the scope of work must be expanded based on the outcome of an assessment done in accordance with these Regulations, which outcome could not be anticipated prior to the undertaking of the assessment, or in the event where exceptional circumstances can be demonstrated, the competent authority may, prior to the lapsing of the relevant prescribed timeframe, in writing, extend the relevant prescribed timeframe and agree with the applicant on the length of such extension.*

*(8) Any public participation process must be conducted for a period of at least 30 days.”*

<sup>21</sup> *Ibid.*

<sup>22</sup> Activity 36 in Listing Notice 1:

*“The expansion of facilities or structures for the generation of electricity from a renewable resource where-*

*(i) the electricity output will be increased by 10 megawatts or more, excluding where such expansion takes place on the original development footprint; or*

*(ii) regardless the increased output of the facility, the development footprint will be expanded by 1 hectare or more;*

*excluding where such expansion of facilities is for photovoltaic installations and occurs--*

*(a) within an urban area; or*

*(b) on existing infrastructure.”*

<sup>23</sup> *Ibid.*

Basic Assessment procedure	S&EIR
Competent authority has 10 days to acknowledge receipt.	Competent authority has 10 days to acknowledge receipt.
Scoping circular which has been subject to public participation for at least 30 days (comments addressed) must be submitted within 44 days.	Basic assessment circular (inclusive of specialist circulars which have been subject to public participation for at least 30 days) submitted within 90 days OR notification that will be submitted within 140 days.
Competent authority has 10 days to acknowledge receipt.	Competent authority has 10 days to acknowledge receipt
The competent authority has 43 days from the receipt of the scoping circular to accept the scoping circular or refuse the environmental authorisation.	Competent authority has 107 days to consider basic assessment circular and grant or refuse environmental authorisation.
The applicant has 106 days from the acceptance of the scoping circular to submit an EIA circular including specialist circulars which have been subject to a public participation period of at least 30 days or submit a notification that they will be submitted within 156 days.	The competent authority then has 5 days to provide the applicant with the decision and the applicant then has 14 days to ensure all interested and affected parties are notified of the decision.
Competent authority has 10 days to acknowledge receipt.	
The competent authority then has 107 days after the receipt of the Environmental Impact Assessment circular and Environmental Management Programme to grant or refuse the environmental authorisations.	
The competent authority then has 5 days to provide the applicant with the decision and the applicant then has 14 days to ensure all interested and affected parties are notified of the decision.	