



**DEPARTMENT: ENVIRONMENTAL AFFAIRS AND TOURISM
REPUBLIC OF SOUTH AFRICA**

Private Bag X447, Pretoria, 0001 Tel: (27-12) 310 3911 Fax: (27-12) 322 2682
Fedsure Forum Building, North Tower, cor. Van der Walt and Pretorius Streets, Pretoria
www.environment.gov.za

**RECORD OF DECISION FOR PROJECT REFERENCE 12/12/20/460: DARLING NATIONAL
DEMONSTRATION WIND FARM**

By virtue of the power delegated by the Minister in terms of section 33(1) of the Environment Conservation Act, (Act 73 of 1989) ("the Act"), the Department of Environmental Affairs and Tourism ("the Department") hereby, in terms of section 22(3) of the Act, authorises Darling Independent Power Producer (Pty) Ltd. to undertake the activity specified/ detailed below subject to the indicated conditions.

1. DESCRIPTION, EXTENT AND LOCATION OF THE ACTIVITY:

The proposed activity entails the construction of the Darling National Demonstration Wind farm consisting of four Danish supplied 1.3 MW wind turbines (total output 5.2 MW) and its associated infrastructure. Each BONUS/AS 1.3 MW wind turbine consists of a single 50 metre vertical tubular mast structure, to which three 31 metre long blades are attached. Other infrastructure associated with the wind turbines include access roads, sub-surface power cables, a mini-substation near the base of the turbines, a full-size substation near the R27 road and a facilities building near to the mini-substation.

The proposed activity will be located on the farm Windhoek (remainder of portion 552 of Slangkop) 12.2 km north west of Darling and approximately 2.2 km north of the road to Yzerfontein on the West Coast. The wind farm would be situated below the crest of Moedmaag Hill, a freestanding hill in the north-eastern corner of the site and at 252 metres above sea level. The co-ordinates are 33°19'30" S and 18°15'30" E.

The project falls within the ambit of sub regulations 1(a), 1(d), 2(c) and 10 of Government Notice R1182 (as amended) promulgated under sections 21, 26 and 28 of the Act.

2. KEY FACTORS INFORMING THE DECISION:

In reaching its decision in respect of the application, the Department has taken, *inter alia*, the following information into consideration:

- The Final Scoping Report dated October 2004
- The Environmental Impact Assessment Report dated January 2002.
- The White Paper on Energy Policy for the Republic of South Africa.

In reviewing this information, the Department made the following findings:

- No significant negative impacts are anticipated which couldn't be adequately catered for through mitigation, rehabilitation and management.

- The environmental impact assessment complies with the requirements of the EIA Regulations.
- Information submitted by the independent environmental consultant is deemed to be sufficient and adequate to make an informed decision.
- No fatal flaws have been identified during the EIA process and review of the final scoping report dated October 2004.
- Negative environmental impacts associated with the project can be sufficiently mitigated and rehabilitated provided the conditions contained in this record of decision (ROD) are implemented and adhered to.

The Department is of the opinion that the Darling National Demonstration Wind Farm will:

- Adapt, develop and apply existing technology to local conditions and needs, and act as a pilot project to resolve technical and structural issues to assist independent power producers to participate in meeting South Africa's electricity generation and environmental conservation needs.
- Contribute to the restoring of the Global environment in accordance with recommendations of UNCED (Agenda 21) by identifying barriers for possible replication of wind farms and provide suggestions on how those barriers could be removed.
- Contribute to the improvement of air quality through reductions of carbon dioxide emissions and other gases (such as sulphur dioxide and nitric oxide) that contribute to global warming and acid rain.
- Demonstrate Government's commitment to the Framework Convention on Climate Change through emission-free generation of electricity and working towards an investor-friendly climate in the energy sector.
- Provide a case study and opportunity for South African banking and investment sectors, and international funders for promotion, facilitating and testing of innovative renewable energy financing options.
- Promote the benefits and use of wind energy as a commercially viable way of generating electricity and contribute to information dissemination efforts around energy matters and environmental impact.
- Provide a planning framework for government on how to approach an equitable balance between development priorities and environmental conservation.
- Demonstrate how a South African wind energy industry could contribute to the creation and retention of jobs and skills.
- Demonstrate the generation of electricity from wind energy and its potential to contribute to the infrastructural development of South Africa within a successful and sustainable national growth and development strategy.
- Build capacity in the implementation of the White Paper on Energy Policy with the aim of achieving energy security in electricity supply and environmental restoration through diversification of supply sources.

Based on the above, the Department's conclusion is that this activity will not lead to substantial detrimental impact on the environment, that potential detrimental impacts resulting from this activity can be mitigated to acceptable levels and that the principles contained in section 2 of NEMA can be upheld.

The Department has accordingly decided to grant Darling Independent Power Producer (Pty) Ltd. authorisation in terms of Regulations R1182 and R1183 (as amended) promulgated under sections 21, 22, 26 and 28 of the Environment Conservation Act (Act 73 of 1989) subject to the conditions and provisions listed below.

3. CONDITIONS

3.1 Description and extent of the activity

The authorisation applies in respect of:

- The construction of four Danish supplied 1.3 MW wind turbines as indicated in the attached map;
- Construction and upgrading of roads;
- Subsurface power cables;
- A mini-substation at the base of the turbines;
- A facilities building near to the mini-substation; and
- A substation near the R27.

3.2 Specific conditions

3.2.1 The recommendations and mitigation/rehabilitation measures contained in the final scoping report dated October 2004 and the Environmental Impact Assessment Report (EIAR) dated January 2002 report must be implemented and adhered to.

3.2.2 The applicant must develop and implement a construction environmental management plan (EMP) for the Darling National Demonstration Wind Farm. The EMP must include but is not limited to the following:

- The erection of the 4 (four) turbines;
- The construction of new and upgrading of existing access roads;
- The laying of subsurface power cables;
- The construction of the mini-substation; and
- The construction of the substation.

The EMP must incorporate the conditions contained in this ROD as well as the mitigation/rehabilitation measures and recommendations in the final scoping report dated October 2004 and the EIAR dated January 2002. The EMP should be developed under the following headings: activity, environmental specification, responsible person/s and phase. The EMP must be submitted to this Department for approval 4 (four) weeks prior to any land clearing and construction commencing. The EMP may be altered, where independent monitoring and auditing of the construction of the project show this to be beneficial. Any alterations to the EMP shall be subject to approval by this Department.

3.2.3 The applicant must develop and implement a monitoring programme for the operation of the wind farm. The monitoring programme must stipulate the criteria against which the feasibility of the technology and the project will be measured. The monitoring programme must incorporate the applicable conditions contained in this ROD, the mitigation/rehabilitation measures and recommendations in the final scoping report dated October 2004 and the EIAR dated January 2002, and the EMP. The programme should include aspects such as bird impacts, noise impacts, telecommunication impacts, vegetation and visual impacts etc. The monitoring programme must be developed in consultation with the environmental

consultants and specialists responsible for the environmental impact assessment. The monitoring programme must be submitted to this Department for approval before construction commences. The monitoring programme may be altered, where independent monitoring and auditing of the construction and operation of the project show this to be beneficial. Any alterations to the monitoring programme shall be subject to approval by this Department. The information obtained through this monitoring programme must be in the motivation for any further applications and the implementation of this technology on a wider commercial and regional scale.

3.2.4 Should the monitoring and auditing results indicate that there are significant environmental impacts, this Department may withdraw this authorisation and instruct the applicant to decommission the Darling National Demonstration Wind Farm and rehabilitate the area to the satisfaction of this Department.

3.2.5 The applicant must develop and implement an operational environmental management plan (EMP) for the Darling National Demonstration Wind Farm. The EMP must include but is not limited to the following:

- Maintenance of the wind turbines;
- Continual monitoring of bird fatalities;
- The removal of deceased birds; and
- The conditions as appropriate to the operational phase of the project contained in this ROD as well as the mitigation/rehabilitation measures and recommendations in the final scoping report dated October 2004 and the EIAR dated January 2002 and the monitoring programme.

The EMP should be developed under the following headings: activity, environmental specification, responsible person/s and phase. The EMP must be submitted to this Department for approval 4 (four) weeks prior to operation commencing. The EMP may be altered, where independent monitoring and auditing of the operation of the wind farm show this to be beneficial. Any alterations to the EMP shall be subject to approval by this Department.

3.2.6 The micro-siting of the 4 (four) wind turbines must be undertaken in consultation with the environmental consultants and specialists (e.g. botanical, bird, landscape, social, noise) involved in the environmental impact assessment process prior to the final siting of the wind turbines to ensure that all the findings, recommendations and mitigation/rehabilitation measures contained in the final scoping report dated October 2004 and the EIAR dated January 2002 are considered. The final layout plan must be submitted to this Department for approval prior to commencement of construction.

3.2.7 The conditions stipulated in this ROD, the recommendations and mitigation/rehabilitation measures contained in the final scoping report dated October 2004 and the EIAR dated January 2002 and the EMP shall be a legally binding component of any contract and should therefore be legally enforceable.

3.2.8 All recommendations contained in the final scoping report dated October 2004 and the EIAR dated January 2002 and its appendices, which are not covered under the conditions contained in this ROD, must be regarded as conditions in terms of this ROD.

3.2.9 The mitigation/rehabilitation measures proposed may be altered, where monitoring and auditing of the construction and operation of the project show this to be beneficial. Any alterations shall be subject to approval by this Department.

- 3.2.10 The conditions stipulated in this ROD as well as the mitigation/rehabilitation measures and recommendations in the final scoping report dated October 2004 and the EIAR dated January 2002 shall be a legally binding component of any contract and should therefore be legally enforceable.
- 3.2.11 The conditions of this authorisation must be brought to the attention of all persons (employees, sub-consultants, contractors etc.) associated with the undertaking of this activity and the applicant shall take such measures necessary to bind such persons to these conditions.
- 3.2.12 Authorisation must be obtained from the Civil Aviation Authority prior to commencement of construction.
- 3.2.13 Authorisation must be obtained from the Local Authority in terms of the Land Use Planning Ordinance, 1985 (Ordinance No. 15 of 1985), prior to commencement of construction.
- 3.2.14 The applicant must appoint a suitably experienced independent environmental control officer (ECO) to ensure that the conditions, mitigation/rehabilitation measures and recommendations stipulated in this ROD, the final scoping report dated October 2004 and the EIAR dated January 2002, and the EMP are complied with. The name and contact details of such an officer must be announced and forwarded to this Department before construction commences. The functions of the ECO, frequency of site visits and the relationship with contractors on site, must be stipulated in the construction and operation EMPs. Monitoring/auditing results must be submitted to this Department within 10 days after completion of the monitoring/audit. Should the monitoring/auditing results indicate that there are significant detrimental environmental impacts, this Department reserves the right to review its decision as indicated in the ROD.
- 3.2.15 An independent post-construction environmental audit must be conducted to ensure that the conditions stipulated in this ROD, the final scoping report dated October 2004 and the EIAR dated January 2002, and the construction EMP are complied with before operation commences. The results of this audit must be submitted to this Department within 10 days after completion of the audit. Should the audit indicate that there are significant detrimental environmental impacts, this Department reserves the right to review its decision as indicated in the ROD.
- 3.2.16 The applicant must compile and submit a decommissioning phase EMP for the Darling National Demonstration Wind Farm to this Department 4 (four) weeks prior to the decommissioning phase commencing. The EMP must include but not be limited to a rehabilitation programme. All appropriate laws and regulations, applicable at the time of decommissioning shall be complied with.
- 3.2.17 This Department reserves the right to monitor and audit the development throughout its full life cycle to ensure that it complies with the conditions stipulated mitigation/rehabilitation measures and recommendations stipulated in this ROD, the final scoping report dated October 2004 and the EIAR dated January 2002, and the EMP.
- 3.2.18 Records of monitoring and/or auditing must be made available for inspection to any relevant authority inspecting the development.

- 3.2.19 An integrated waste management approach must be used that is based on waste minimisation and best practice, and should incorporate reduction, recycling, re-use and disposal, where appropriate. All waste generated on site during the construction and/or operation of the development must be stored, handled and disposed of in an environmentally acceptable way, and as directed by this Department or any other relevant authority.
- 3.2.20 Building rubble and solid waste (such as sand, gravel, concrete and waste material) that cannot be used in the filling and rehabilitation of gravel pits, roads, erosion gullies etc. and other litter and waste generated during the construction and operational phases must be removed from site and be disposed of safely and responsibly at a landfill licensed in terms of section 20 of the Environment Conservation Act, 1989 (Act No. 73 of 1989).
- 3.2.21 Disturbance to vegetation must be restricted to the absolute minimum and areas disturbed as a result of construction activities must be rehabilitated as soon as possible to the satisfaction of the ECO and this Department.
- 3.2.22 Soil erosion must be prevented during construction activities. Land degraded as a result of the above shall be rehabilitated as soon as possible.
- 3.2.23 Should any cultural, historical and/or archaeological artefacts be discovered on site during the construction phase, work at the site must cease immediately. The ECO and this Department must be notified within 24 hours where after this Department will issue instructions on the way forward.
- 3.2.24 Appropriate safety measures must be taken to ensure the safety of construction personnel.
- 3.2.25 Every effort must be made to optimise the benefits of the Darling National Demonstration Wind Farm through maximising the number of local people employed during the construction phase, maximising the transfer of skills and sharing knowledge acquired during the implementation and operational phases.

3.3 General conditions

- 3.3.1 Authorisation for the activity is granted only in terms of section 22 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) and does not exempt the holder thereof from compliance with any other relevant legislation.
- 3.3.2 This authorisation refers only to the activity as specified and described in the final scoping report dated October 2004. Any other activity listed under section 21 of the Environment Conservation Act, 1989 (No. 73 of 1989) that is not specified above, is not covered by this authorisation, and must therefore comply with the requirements of the Environment Conservation Act, 1989, and Regulations R1182 and R1183 (as amended).
- 3.3.3 This authorisation is subject to the approval of the relevant local authorities in terms of any legislation administered by those authorities.

3.3.4 The applicant must, within 7 (seven) calendar days of the date of signature of this ROD inform all registered interested and affected parties and the relevant local authority of at least the following:

- i) That an authorisation has been issued to the applicant to proceed with the construction and operation of the activity.
- ii) If requested, provide copies of this ROD.
- ii) That any appeals against the issuing of the authorisation must be lodged with the Minister of Environmental Affairs and Tourism within 30 (thirty) days from the date on which this ROD has been issued to the applicant at the address stipulated in this ROD.
- iii) That an appeal questionnaire may be used in the lodging of an appeal. It is obtainable from the Department's offices at tel. (012) 310 3590 or e-mail: cveeden@deat.gov.za.
- iv) Include the date on which the ROD was issued to the applicant in terms of regulation 10(1) and the date by which appeals must reach the Minister.

Failure to inform interested and affected parties within the stipulated time period may result in the Minister considering requests from such parties for condonation to submit a late appeal favourably.

3.3.5 No development, including site preparation may commence prior to the expiry of the time period allowed for the submission of an appeal, or in the event of an appeal being lodged, before the Minister has reached a decision on the appeal.

3.3.6 One week's written notice must be given to this Department before commencement of construction activities. Such notice shall make clear reference to the site location details and reference number given above.

3.3.7 One week's written notice must be given to this Department before commencement of operation activities. Such notice shall make clear reference to the site location details and reference number given above.

3.3.8 The applicant shall be responsible for ensuring compliance with the conditions contained in this ROD by any person acting on his behalf, including but not limited to, an agent, servant, or employee or any person rendering a service to the applicant in respect of the activity, including but not limited to, contractors and consultants.

3.3.9 The applicant must notify the Department in writing, within 24 (twenty four) hours if any condition of this authorisation cannot, or is not, adhered to. The notification must be supplemented with reasons for non-compliance.

3.3.10 A copy of the authorisation and ROD shall be available on site during construction and all staff, contractors and sub-contractors shall be familiar with or be made aware of the contents of this authorisation and ROD.

3.3.11 Compliance/non-compliance records must be kept and shall be made available on request from the authorities within five days of receipt of the request.

- 3.3.12 Any changes to, or deviations from, the project description set out in this letter 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.
- 3.3.13 This Department may review the conditions contained in this letter from time to time and may, by notice in writing to the applicant, amend, add or remove a condition.
- 3.3.14 In the event that the predicted impacts exceed the significance as predicted by the independent consultant's in the final scoping report dated 2004 and supporting documentation, the authorisation may be withdrawn after proper procedures have been followed.
- 3.3.15 In the event of any dispute concerning the significance of a particular impact, the opinion of the Department of Environmental Affairs and Tourism (DEAT) in respect of its significance will prevail.
- 3.3.16 The applicant must notify the Department, in writing, at least 10 (ten) days prior to the change of ownership, project developer or the alienation of any similar rights for the activity described in this letter. The applicant must furnish a copy of this document to the new owner, developer or person to whom the rights accrue and inform the new owner, developer or person to whom the rights accrue that the conditions contained herein are binding on them.
- 3.3.17 Where any of the applicant's contact details change, including the name of the responsible person, the physical or postal address and/or telephonic details, the applicant must notify the Department as soon as the new details become known to the applicant.
- 3.3.18 National government, provincial government, local authorities or committees appointed in terms of the conditions of this application or any other public authority or organisation 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 approval as set out in this document or any other subsequent document emanating from these conditions of approval.
- 3.3.19 If any condition imposed in terms of this authorisation is not complied with, the authorisation may be withdrawn after 30 days written notice to the applicant in terms of section 22(4) of the Environment Conservation Act, 1989 (Act No. 73 of 1989).
- 3.3.20 Failure to comply with any of these conditions shall also be regarded as an offence and may be dealt with in terms of sections 29, 30 and 31 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), as well as any other appropriate legal mechanisms.
- 3.3.21 The applicant shall be responsible for all costs necessary to comply with the above conditions unless otherwise specified.
- 3.3.22 Any complaint from the public during construction must be attended to as soon as possible to the satisfaction of the parties concerned. A complaints register must be kept up to date and shall be produced upon request.

3.3.23 Departmental officials shall be given access to the property referred to in 3.1 above for the purpose of assessing and/ or monitoring compliance with the conditions contained in this document at all reasonable times.

3.3.24 All outdoor advertising associated with this activity, whether on or off the property concerned, must comply with the South African Manual for Outdoor Advertising Control (SAMOAC) available from this Department.

3.4 Duration of authorisation

If the activity authorised by this letter does not commence within 4 (four) years from the date of signature of this letter, the authorisation will lapse and the applicant will need to reapply for exemption or authorisation in terms of the above legislation or any amendments thereto.

4. CONSEQUENCES OF NON-COMPLIANCE

The applicant must comply with the conditions set out in this letter. Failure to comply with any of the above conditions may result in, *inter alia*, the Department withdrawing the authorisation, issuing directives to address the non-compliance – including an order to cease the activity – as well as instituting criminal and/or civil proceedings to enforce compliance.

5. APPEALS

Appeals in respect of this decision must be lodged with the Minister of Environmental Affairs and Tourism within 30 (thirty) days of the date of this decision. Appeals can be submitted utilizing one of the following methods:

By facsimile: (012) 322 0082

By post: Private Bag X447, Pretoria 0001

By hand: 2nd Floor, Fedsure Forum Building, North Tower, cor. Van der Walt and Pretorius Streets, Pretoria.

Appeals must comply with the provisions of Regulation 11 of Government Notice No. R. 1183 which reads as follows:

- (1) An appeal to the Minister or provincial authority under section 35(3) of the Act must be done in writing within 30 days from the date on which the ROD was issued to the applicant in terms of regulation 10(1);
- (2) An appeal must set out all the facts as well as the grounds of appeal, and must be accompanied by all relevant documents or copies of them which are certified as true by a commissioner of oaths.

An appeal questionnaire may be used in the lodging of an appeal. It is obtainable from the Department's offices at tel. (012) 310 3590 or e-mail: cveeden@deat.gov.za.

Should the applicant wish to appeal any aspect of this decision, the applicant must notify and furnish copies of the appeal which will be submitted to the Minister, to all registered interested and affected parties. Proof of such notification must be submitted to the Minister with the appeal. Failure to comply with this provision may result in the Minister refusing to consider the appeal.



C OLVER
DIRECTOR-GENERAL

DATE: 28.2.05

Moedmaag Hill

Wind Turbines

Access Road

WINDHOEK

EXISTING ACCESS ROAD

2600-2800

