



CK 2002/048015/23
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DEADP Reference: E12/2/3/1-A5/98-0219/07

To: Interested and Affected Party

Date: 12 October 2010

PUBLIC PARTICIPATION PROCESS

PROPOSED NEW MTN COMMUNICATION BASE STATION ON ERF 10762, DALHAM ROAD, CONSTANTIA

Dear Interested and Affected Party,

Notification:

The applicant, MTN, has reduced the cell mast height from 15m to 14.5m and therefore this project is no longer a listed activity. The Department of Environmental Affairs and Development Planning have accepted the application withdrawal and have advised that all Interested and Affected Parties be made aware of the relevant regulations as listed below:-

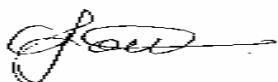
1. On 18 June 2010 the Minister of Water and Environmental Affairs promulgated regulations in terms of Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), viz, the Environmental Impact Assessment ("EIA") Regulations 2010 (Government Notice No. R.543, R.544, R.545, R.546 and R.547 in Government Gazette No. 33306 of 18 June 2010). These regulations came into effect on 02 August 2010 (Government Notice No. R.660, R.661, R.662, R.663, R.664 and R.665 in Government Gazette Notice No. 33411 of 02 August 2010). The EIA Regulations 2010 replace the EIA Regulations that were promulgated in 2006 and also introduce new provisions regarding Environmental Impact Assessments ("EIAs") as well as Regulations regarding Environmental Management Frameworks ("EMFs").
2. Please note that with the coming into effect of the NEMA EIA Regulations 2010, Item 14 of GN No. R.386 of 2006 has been replaced by Item 3 of GN No. R546 (Listing Notice 3) of 18 June 2010 being: "The construction of masts or towers of any material or type used for telecommunication broadcasting or radio transmission purposes where the mast :
 - a. Is to be placed on a site not previously used for this purpose, and

- b. Will exceed 15m in height, but excluding attachments to existing buildings and masts on rooftops in:
 - i. An estuary;
 - ii. All areas outside urban areas;
 - iii. Areas inside urban areas but outside commercial and industrial areas.

- 3. Although the proposed activity no longer triggers any listed activity, the Department would like to draw attention to the following:
 - 3.1 The duty of care as prescribed in Section 28 of the NEMA, 1998 which provides that *“Every person who causes, has caused or may cause significant pollution or degradation of the environment, must take reasonable measures to prevent such pollution or degradation from occurring, continuing or reoccurring”*. Reasonable measures would include an investigation, assessment and evaluation of the impact on the environment.
 - 3.2 Section 2 of the NEMA which states that the principles set out in that section of the Act, apply throughout the Republic to the actions of all organs of state that may significantly affect the environment. The principles contained in Section 2 of the NEMA must therefore be considered.

SHE Cape Environmental (cc) trusts that you find the above concise information of value.

Yours sincerely,



Gillian Du Plooy
SHE Cape Environmental (cc)