

APPENDIX C – THE SCOPING AND EIA PROCESS

According to Appendix 2, Section 2 (1), of the 2014 EIA Regulations (as amended), a “*scoping report must contain the information that is necessary for a proper understanding of the process, informing all preferred alternatives, including location alternatives, the scope of the assessment, and the consultation process to be undertaken through the environmental impact assessment process, and must include—*

- (g) a full description of the process followed to reach the proposed preferred activity, site and location of the development footprint within the site, including—*
 - (ii) details of the public participation process undertaken in terms of regulation 41*
 - (iii) a summary of the issues raised by interested and affected parties, and an indication of the manner in which the issues were incorporated, or the reasons for not including them;*

In terms of the South African Environmental Legislative Framework, this project will be subject to the Environmental Authorisation process, which came into effect on 4 December 2014 and was subsequently amended on 7 April 2017. This process has been implemented by South African National Government to streamline the environmental process due to the number of authorisations required for these types of projects. It is intended to save time, rationalise the management of the number of competent authorities and prevent delays due to the lack of resources and time for the review process. Based on the scope of work, this project requires an Environmental Authorisation (EA) in terms of the National Environmental Management Act (NEMA) (Act No. 107 of 1998, as amended) and the 2014 EIA Regulations (as amended). The process triggered is a Scoping and Environmental Impact Assessment report (S&EIR). All the phases including the Environmental Management Programme report (EMPr) must be prepared in terms of the NEMA and GN R. 982, (as amended by GN R. 326) and the associated activities listed under GN R. 983, GN R. 984 and GN R. 985 (as amended by GN R 327, GN R 325, and GN R 324 respectively).

The S&EIR must ensure that all parties involved are aware that the assessment is not solely focused on the biophysical environment, but is inclusive of social and economic considerations. CES’s approach to the S&EIR process is to adopt a holistic and integrated view of the environment, with equal emphasis on the ecological and social components. Based on previous experience, incorporating both aspects at an early stage leads to a more comprehensive end product. In order to produce comprehensive and complete documents, the S&EIR must not only identify and evaluate the significance of environmental impacts, but also suggest ways to mitigate any negative impacts and optimise positive impacts.

Scoping and EIR Process

The process to be followed is dictated by the 2014 EIA Regulations (as amended) for projects requiring an S&EIR (Figure C1). The S&EIR process is initiated through a pre-assessment Public Participation Process (PPP). The pre-assessment process is not a mandatory requirement in terms of the 2014 EIA Regulations (as amended) but is a beneficial option for the client and EAP in order to identify key stakeholders and Interested and Affected Parties (I&APs), as well as to identify any fatal flaws, at the onset of a project.

This phase is followed by the Scoping Phase (inclusive of a notice of intent to the authorities, landowners and other I&APs and Stakeholders). During the Scoping Phase, the Terms of Reference (ToR) for the full EIA is formulated, and requirements from the authorities clarified. The Scoping process serves to bring stakeholders on board by means of consultation with relevant government departments, allowing for the identification of potential issues and concerns.

After completion of the Scoping Phase, detailed specialist studies will be undertaken in order to address issues identified during the Scoping Phase. Specialists are expected not only to provide baseline information in their particular field of expertise for the study area, but also to take this study further and identify which project activities will result in significant impacts. Specialists are also expected to suggest ways in which these negative impacts could be mitigated, to reduce their severity.

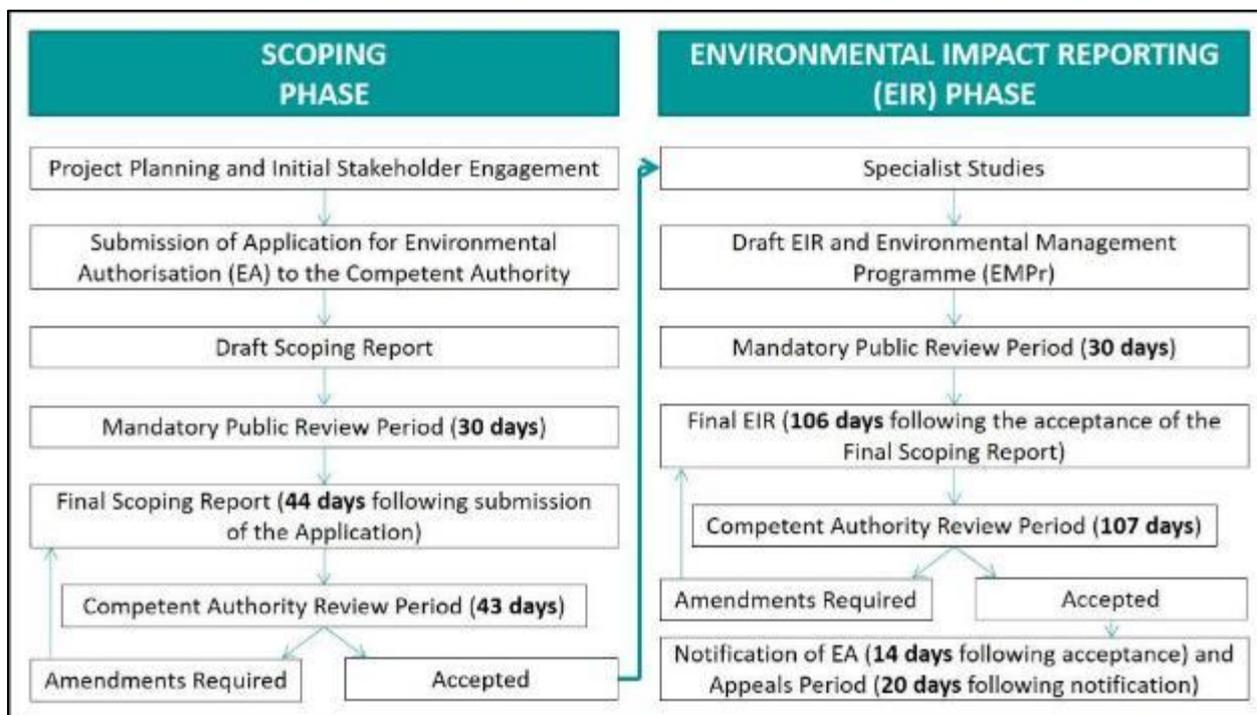


Figure C1: Scoping and Environmental Impact Assessment Process.

All draft reports are submitted for public review, which is a mandatory period of 30 calendar days, during which time CES present the key findings to all I&APs at the provincial and local levels. All comments made by I&APs are captured in an Issues and Response Trail (IRT) and, in this report, responses to all issues and concerns raised during the public review period are provided.

All recommendations cited in the EIA report must be detailed in an Environmental Management Programme report (EMPr), which defines the actions to be implemented. The EMPr is recognised as a very important tool for the sound environmental management of projects.

Scoping Phase

The Scoping Phase is outlined in GN R. 982 (as amended by GN R. 326) 2014 EIA Regulations (as amended) under Part 3, Regulation 21, as well as in Appendix 2. The process consists of a desktop review, site visit, public participation, submission of the NEMA Application Form and the Scoping Report (draft and final versions).

Desktop Review

All aspects of the proposed project are first analysed using a high-level desktop study which looks at the basic description of the project and what the initial environmental and social concerns may be. This includes background information for the project area as well as the proposed activity, details of the activity applied for according to the 2014 EIA Regulations (as amended) (the listed activities) and the type of assessment which will be required. The desktop review involves the interpretation of maps covering the proposed project area, as well as available reports and planning instruments in order to familiarise the project team with the area and the various physical and biological properties of the area. The desktop review also identifies if the project requires any additional licences in terms of water use, waste, air quality, land use or any other environmental requirements.

Site Visit

CES consultants made an initial visit to the proposed project site on the 16th of December 2018 in order to assess the site and initiate the Scoping Phase. Baseline social and ecological data was collected at a screening level.

Public Participation

Interested and Affected Parties (I&APs) play an important role in the S&EIR process, as many of their concerns and issues can be included in the project proposal, to ensure a project which is as environmentally and socially acceptable as possible. The general public, key stakeholders, landowners, adjacent landowners and government authorities at National, Provincial and Local level, will be notified of the proposed project. The means by which I&APs were notified are described in full in Appendix B.

Submission of Application Form

An application for Environmental Authorisation (EA) will be submitted to the Competent Authority (CA), the Eastern Cape Department of Economic Development, Environmental Affairs and Tourism (DEDEAT), as per the requirements of Regulation 16 of the 2014 EIA Regulations (as amended in 2017). The applicant, the Frances Baard District Municipality, is a municipal entity and therefore the prescribed application fee (effective as of 1 April 2014) will not be applicable.

Draft Scoping Report

The information gathered through the initial PPP phase, as well as the information from the site visit and from the client with regard to the design of the project was integrated into the Draft Scoping Report. The Draft Scoping Report will be made available to the public for a period of 30 calendar days for comment, during which time a public meeting was held. Registered I&APs will be informed of the release of the Draft Scoping Report by email. The release of the report will also be advertised in one provincial and/or one local newspaper. Hard copies of the report will be made available in publicly accessible places such as a local public library, and will also be available on request from the EAP.

Final Scoping Report

Any comments, issues and concerns raised by I&APs and the authorities during the review period of the Scoping Phase are included in the Final Scoping Report in the form of an Issues and Response Trail (IRT). The Final Scoping Report will be submitted to DEDEAT, who will decide whether the main phase of the EIA can be initiated. DEDEAT will also approve, with or without amendments, the Terms of Reference (ToR) for the proposed specialist studies, and the Plan of Study for the EIA phase of the assessment, which is presented in Chapter 7 of this report. The Final Scoping Report must be submitted to DEDEAT within 44 days of receipt of the application by the competent authority.

According to the 2014 EIA Regulations (as amended in 2017), Regulation 22, DEDEAT must accept or reject the Final Scoping Report within 43 days of receipt of the report.

Specialist Study Phase

The objectives of the specialist assessments are as follows (full terms of references for each of the above mentioned assessment are available in Chapter 7, Section 7.2):

- Assist in defining possible constraints associated with the proposed project;
- Determine the potential indirect, direct and cumulative environmental risks/impacts to receptors associated with the proposed project;
- Advise on mitigation measures for identified significant risks/impacts and measures to enhance positive opportunities of the project; and
- Guide the project layout.

Environmental Impact Assessment Phase

The EIA Phase is outlined in GN R. 982 (as amended by GN R. 326), 2014 EIA Regulations (as amended) under Part 3, Regulation 23, as well as Appendix 3. This task involves the integrated writing of the Environmental Impact Assessment report (EIR). Specialist input to the proposed project will be undertaken during preparation of the Draft EIR. The report will consist of an introductory section, followed by a detailed project description, sections in which the results of all specialist reports are summarised, and an environmental impact section, where impacts are assessed and rated according to a predefined rating scale. Measures to mitigate negative impacts as proposed by the various specialists will also be included.

Draft Environmental Impact Assessment Report

The primary objective is to prepare a report that is scientifically credible but also understandable, with enough detail to deal with all the issues but not too much detail to confuse I&APs. The EIR will include a detailed Environmental Management Programme report (EMPr), which will be submitted as a separate report, for the proposed project. The EMPr will contain suggested measures to manage and mitigate impacts identified during the EIA Process, for both the construction and operational phase of the project. These measures will be informed by the findings of the EIR, and particularly by the specialist assessments undertaken as part of this process.

Environmental Management Programme

The measures presented in the EMPr will be aimed at enhancing the potential benefits and minimizing the potential negative impacts of the project. The EMPr will specify responsibilities for the implementation and monitoring of the project as well as the periodicity of the audits to be carried out. The Draft EIR and EMPr will be made available to the authorities and the public for a period of thirty (30) calendar days (mandatory). The availability of the Draft EIR and EMPr to the public will be advertised in one provincial and/or one local newspaper. A hard copy of the report will be made available as done in the Scoping Phase.

Final Environmental Impact Assessment Report

A further public meeting (as required) will be held during the public review period, to inform stakeholders and I&APs of the detailed findings of the EIA Phase, and to enable them to raise any issues or concerns. When the Draft EIR and EMPr have been updated to reflect public comments the deliverables from the entire EIA Process, the Final EIR will be prepared. This will include the additional comments, issues and concerns raised by I&APs and the authorities, provided in an updated Issues and Response Trail (IRT). The Final EIR, Final Specialist Report Volume and Final EMPr will then be submitted to DEDEAT for decision making. The Final EIR must be submitted to DEDEAT within 106 days of acceptance of the Scoping Report by the competent authority.

According to the 2014 EIA Regulations (as amended) Regulation 24, DEDEAT must, within 107 days of receipt of the Final EIR and EMP, either grant or refuse the application by means of a positive or negative Environmental Authorisation (EA).

Environmental Authorisation Phase

Should the EA be granted, it usually carries Conditions of Approval. The project proponent is legally obliged to adhere to all conditions stipulated therein. In accordance with GN R. 982, as amended by GN R. 326, a copy of the EA must be sent to all registered I&APs within fourteen (14) days of the date of issuing the authorisation. The public can then appeal the decision, should they wish to do so. A notice of intent to appeal must be submitted to the relevant competent authority within twenty (20) days upon notice of a decision on the application.