



## FEBRUARY NEWSLETTER 2021

Dear Readers,

We hope that you are staying safe and healthy and that 2021 has started on a good note!



The February edition of our newsletter looks at renewable energy, while also focusing on recent legal notices and amendments.

### NATIONAL LEGISLATION

#### ❖ **NATIONAL WATER ACT 36 OF 1998**

National Water Act 36 of 1998 - GN 1289 in GG 43962 of 4 December 2020 - Determination of Classes of Water Resource and Associated Resource Quality Objectives for the Berg Catchment published in GN 1179 in GG 43872 of 6 November 2020 corrected

#### ❖ **NATIONAL FORESTS ACT 84 OF 1998**

National Forest Act 84 of 1998 – GN 1339 in GG 43992 of 11 December 2020- Declaration of the Grey Dell and Fort Grey Forests Areas as a Natural Forest under Section 7 (2) of the Act

#### ❖ **NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT 10 OF 2004**

National Environmental Management: Biodiversity Act 10 of 2004 – Gen Not 726 in GG 43981 of 11 December 2020 - National Botanical Gardens Expansion Strategy 2019-2030

National Environmental Management: Biodiversity Act 10 of 2004 – Gen Not 725 in GG 43981 of 11 December 2020 - Intention to declare the Thohoyandou National Botanical Garden – for comment

National Environmental Management: Biodiversity Act 10 of 2004 – GN 1295 in GG 43971 of 7 December 2020 - Non-detriment findings in relation to Aloe ferox

❖ **NATIONAL HERITAGE RESOURCES ACT 25 OF 1999**

National Heritage Resources Act 25 of 1999 – GN 1359 in GG 44003 of 18 December 2020 - Declaration of the Sibhudu Cave, KwaDukuza Municipality, KwaZulu-Natal as a National Heritage Site

National Heritage Resources Act 25 of 1999 – GN 1358 in GG 44003 of 18 December 2020 - Declaration of the gravesite of Magrieta Jantjies, Kameelboom Cemetery, Upington, Northern Cape as a National Heritage Site

❖ **NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT 39 OF 2004**

National Environmental Management: Air Quality Act 39 of 2004 - GN 1283 in GG 43962 of 4 December 2020 - Draft Methodological Guidelines for Quantification of Greenhouse Gas Emissions - Carbon Sequestration in the Forestry Industry - for comment

National Environmental Management: Air Quality Act 39 of 2004 – GN 10 in GG 44065 of 11 January 2021: Regulations: Phasing-out and management of ozone depleting substances in South Africa - Amendment

❖ **WORLD HERITAGE CONVENTION ACT 49 OF 1999**

World Heritage Convention Act 49 of 1999 – Proc 37 in GG 43981 of 11 December 2020 - Proclamation of certain land in the Northern Cape to be the †Khomani Cultural Landscape World Heritage Site and to declare the management authority

❖ **NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT 57 OF 2003**

National Environmental Management: Protected Areas Act – GN R1347 in GG 43999 of 15 December 2020 - Regulations: Aliwal Shoal Marine Protected Area

PROVINCIAL LEGISLATION

❖ **GAUTENG**

National Environmental Management: Waste Management Act 59 of 2008 – PN 678 in PG 235 of 27 November 2020 - Draft Gauteng Industry Waste Management Plan for the Informal Waste Industry - for comment

National Environmental Management Act 107 of 1998 – PN 44 in PG 4 of 13 January 2021 - Gauteng Environmental Implementation Plan 2020-2025



❖ **KWA-ZULU NATAL**

National Environmental Management: Protected Areas Act 57 of 2003 - PN 15 in PG 2247 of 17 December 2020 - Intention to declare an addition to a private game reserve: Manyoni Private Game Reserve - for comment

National Environmental Management: Protected Areas Act 57 of 2003 – PN 152 in PG 2247 of 17 December 2020 - Intention to declare a protected environment – Denleigh Protected Environment, Elandsberg Protected Environment and Southdown Protected Environment - for comment:

❖ **WESTERN CAPE**

National Environmental Management Act 107 of 1998 - PN 127 in PG 8359 of 26 November 2020 - Western Cape Environmental Implementation Plan 2020-2025

❖ **LIMPOPO**

National Environmental Management: Protected Areas Act 57 of 2003 – Gen Notice 81 in PG 3124 of 4 December 2020 - Mopani District Municipality - Correction notice to declaration of respective land parcels to be included into the existing Balule Nature Reserve as published under PN 62 in PG 3090 of 17 July 2020

National Environmental Management: Protected Areas Act 57 of 2003 - PN 124 in PG 3124 of 4 December 2020 - Mopani District Municipality - Declaration of respective land parcels to be included into the existing Balule Nature Reserve

❖ **MPUMALANGA**

National Environmental Management: Protected Areas Act 57 of 2003 – PN 2 in PG 3225 of 15 January 2021 - Exclusion of part of protected environment (farms properties) as part of an existing Mabola Protected Environment in terms of the Act

**RMIPPPP AND RENEWABLES – A LIGHT AT THE END OF THE TUNNEL**

*By Tim van der Merwe, Associate*

The IRP 2019 indicated that there is a short-term electricity supply gap of around 2000 MW between 2019 and 2022. This is something that all South Africans have become acutely aware of, with the risk of load shedding an issue that remains embedded in the back of our minds. In response to this, the government launched the Risk Mitigation Independent Power Producer Programme (“**RMIPPPP**”) on 23 August 2020, with its primary objective being to fill the short-term electricity supply gap.

Led the by the Department of Mineral Resources & Energy (“**DMRE**”), the RMIPPPP is also intended to alleviate the current electricity supply constraints, and reduce the need for Eskom to use diesel-based generators to provide power when capacity is reduced. Bidders must meet several criteria to be considered for the programme, and due to the emergency nature of the programme, it will focus on procuring energy from projects that are almost complete

and therefore nearly ready to produce electricity. The RMIPPPP will provide for long-term power purchase agreements of up to 20 years in duration.

### **Bid Deadlines & Potential Hurdles**

Eskom, which will function as the system operator, only specifies that the producer should be *“dispatchable, flexible generation able to operate between 05h00 and 21h30.”* This is to complement the daily electricity demand currently being experienced. The producer must also be able to provide energy, capacity and ancillary services to Eskom. Affordability has been identified as a critical aspect of the RMIPPPP, for both Eskom and the end user of the electricity produced.

Bid submissions were due to conclude on 24 November 2020, while preferred bidders were to be announced in December 2020. After receiving requests to do so, the DMRE extended the timeline and bids were due by 22 December 2020. Preferred bidders are to be announced in January and February 2021, and the preferred bidders are required to reach commercial and financial close within four months of being awarded preferred bidder status.

There has been significant criticism of the tight deadlines imposed on bidders, especially considering that projects must be operational by June 2022. Renewable energy projects, such as wind and solar, had limited opportunities in the initial bidding round as it generally takes significantly longer than 12 months for such facilities to become operational. A further major concern is the capacity and ability of the relevant government departments to issue the requisite licenses and permits in time. One only has to look at the fact that it typically takes the Department of Water & Sanitation (**“DWS”**) between 6 and 18 months to issue a water use licence, which is one of many vital authorisations for such projects to lawfully go ahead. However, it must be noted that the DWS has been working to shorten the time periods for the issuing water use licences, providing some positivity on this front.

Inconsistent behaviour and constant, unnecessary delays from government have plagued the RMIPPPP since its inception, making already-hesitant companies further reluctant to invest fully in the project. The latest Request for Proposal (**“RFP”**) mandates that at least 40 percent of the goods and services be procured locally, with the aim of ensuring South Africa’s economy is bolstered by the project. However, since the lockdown began in March 2020, numerous companies and organisations have shut down, making this target increasingly unreachable. A lack of skilled local individuals, due in part to the so-called *“brain drain”* is a further challenge, and highlights the need for associated investment into the project and supporting industries.

### **The Way Forward & Current Plans**

The above delays, compounded by the COVID-19 pandemic that continues to impact South Africa’s economy, all mean that the renewable energy sector may struggle to meet deadlines and produce the required 2000 MW of electricity by June 2022. Enhanced communication from government, enabling power producers to effectively meet deadlines and procure the necessary skills in time, is vital for ensuring the RMIPPPP’s successful implementation. An important factor to consider, and one that has certainly affected the willingness of companies to fully commit to the programme, is the possibility that the government elects to proceed with a nuclear build. This will undoubtedly have an impact on the renewable energy industry, further compounding the issues identified above.



The delays in mobilising the RMIPPPP, and the continued failings of Eskom with no end in sight, likely mean that load shedding will continue for the foreseeable future – unless government gets its act together. In January 2021, President Cyril Ramaphosa presented at a three-day meeting of ANC party officials and allies, highlighting that the ANC has plans to launch the first renewables round early in 2021 (for 2600 MW of wind and solar power), with another round in August 2021, and a third and final round in early 2022. The total planned additional capacity is 6800 MW which, if successfully implemented within the desired timeframe, will significantly reduce the burden on Eskom, ease South Africa's load shedding woes, and push the economy towards a greener, more sustainable path – in line with international trends and commitments made under the Paris Agreement. However, public-private cooperation and transparency from the government are key, and we will monitor the implementation of the RMIPPPP and the renewables plan with great interest over the coming year.

In a positive move, municipalities across the country are now allowing residential and commercial property owners to feed renewable energy back into the power grid. So, South Africans who have taken the pro-active step of installing renewable energy systems (such as solar) in their homes and businesses, may at last be able to feed this into the grid and be rewarded for it. For every kilowatt hour pumped back into the grid, property owners can get around 72 cents off their monthly power bill. By combining savings with the municipal feed-in tariffs, these solar systems can be paid off in as little as 7 years – and also mean you will be less reliant on the national grid.

### **INTERESTING ENVIRONMENTAL TOPICS**

- ❖ **Water Knowledge & Innovation Sharing**  
<https://www.environment.co.za/environmental-issues-news/the-mammoth-possibilities-of-water-knowledge-and-innovation-sharing.html>
- ❖ **Shot-hole Borer Continues to Cause Trouble**  
<https://www.dailymaverick.co.za/article/2020-12-05-three-years-on-the-shot-hole-borer-continues-to-eat-away-at-sas-trees/>
- ❖ **South Africa's Raptors are Soaring into Oblivion**  
<https://mg.co.za/environment/2020-12-15-africas-iconic-raptors-are-soaring-into-oblivion/>
- ❖ **How South African Police are Tackling Pangolin Smugglers**  
<https://www.bbc.com/news/av/world-africa-55592290>
- ❖ **Community-owned Renewable Energy**  
<https://www.dailymaverick.co.za/article/2020-12-17-community-owned-renewable-energy-is-a-climate-justice-charter-imperative/>

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