

Reference:

160506 AMDA A,B,C

Date:

06 May 2016

AMDA Developments (Pty.) Ltd.  
Level D, The Adderley  
25 Adderley Street  
Cape Town  
8000

ATT: Charlie Berrington

**AMDA Alpha Bravo Charlie Land Use Planning Statement: Portion 1 of the Farm N'Rougas Zuid No. 121, Kenhardt RD, Northern Cape Province**

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The above mentioned matter refers.

This letter serves as a statement of the planning process which will have to be followed in order to establish the land use rights for the development of 3 Solar PV Facilities on Farm N'Rougas Zuid No 121/1, Kenhardt RD. Macroplan issues this statement as a planning consulting firm employing 3 professionally registered town planners at the South African Council for Planners (SACPLAN).

The following planning statement outlines the details of the planning process, as well as the responsibilities of the land use planning specialist, specifically pertaining to the projects envisioned on the above-mentioned property:

- The property is located within the Kai !Garib Local Municipality and any process of land use change will be subject to the Scheme Regulations and Municipal Planning By-Laws of the said Municipality.
- The property is currently zoned as Agricultural Zone I in terms of the Kai !Garib Scheme Regulations. In order to allow for the development of a renewable energy facility thereon, the applicable portion of the property will have to be rezoned to an appropriate zoning.
- There is no default zoning in the Kai !Garib Scheme Regulations allowing for renewable energy development and a Special Zone will have to be proposed. The Special Zone is custom-defined to the exact needs of the developer.
- The application for land use change will be compiled and submitted in terms of the Spatial Planning and Land Use Management Act, Act 16 of 2013 (SPLUMA).
- SPLUMA retracts the Removal of Restrictions Act, Act 84 of 1967, and any title deed restrictions on the property may be removed at the discretion of the local authority in terms of SPLUMA.
- With the enactment of SPLUMA and the Kai !Garib Planning By-Laws, the decision-making powers on land use change applications no longer rest at the Council of the Local Authority, but at the Joint Municipal Planning Tribunal, managed by the ZF Mgcawu District Municipality. The Local Authority remains the authority of first instance and conducts the legal process.

The application for rezoning cannot be submitted to the Local Authority without the following being included as Annexures to the application:

- Environmental Authorisation (EA) acquired through the EIA process.
- No-Objection letter from the Department of Agriculture Forestry and Fisheries (DAFF).
- No-Objection from the Department of Roads and Public Works (DRPW) regarding the adjacency of the Provincial Road (DR3037).
- A full statement of how services will be rendered on the property. This includes water supply, electricity supply, solid waste disposal, sewerage disposal etc.

Macroplan as town planning consultancy offers the service of acquiring the DAFF and DRPW No-Objection letters, but does not negotiate in terms of service provision arrangements. The latter remains the responsibility of the developer and their appointed civil and electrical engineers.

It should also be noted that the Department of Agriculture Forestry and Fisheries will not consider a request for No-Objection without an EIA report in hand. It is also recommended that such an EIA report contains a study of the agricultural potential and soil capability of the involved property, as this will be needed to argue the use of the land for anything other than agriculture. They are also sceptical about using more than 10% of the farm for anything other than agriculture – this should be considered a potential risk. We do not at this stage have clarity if this 10% threshold will apply inside the designated Renewable Energy Development Zones.

Additional to attaining the land use rights at the Local Authority, Macroplan as town planning firm also provides the service of applying for a long term lease at the Department of Agriculture Forestry and Fisheries (DAFF). It must be critically stated that these processes cannot run in parallel anymore, since DAFF will only consider a long term lease application after it has granted a No-Objection letter to the rezoning, as well as the rezoning approval, has been received.

The town planning process may therefore be summarised as follows:

- Compilation of application and motivation for the land use change at the local authority.
- Receipt of No-Objection from the Department of Agriculture Forestry.
- Receipt of No-Objection from the Department of Roads and Public Works.
- Receipt of a clear statement of service delivery.
- Finalising the application and motivation to align with the details contained in the received documents.
- Submission of land use change application to the local authority.
- Receipt of invoice of administrative fees from the local authority and confirmation that public participation may commence.
- Placement of public notices in local print media, registered mail and on-site, inviting members of public to comment on the proposed development.
- Responding to public comments, if any.
- Referral and recommendation of the application from the local authority to the Joint Municipal Planning Tribunal for decision-making.
- Decision to be communicated to the Local Authority by the Tribunal.
- Decision to be transcribed in a formal letter from the Local Authority to the client.

The following matters are excluded from the land use change process, as it should usually be contained as part of the EIA process:

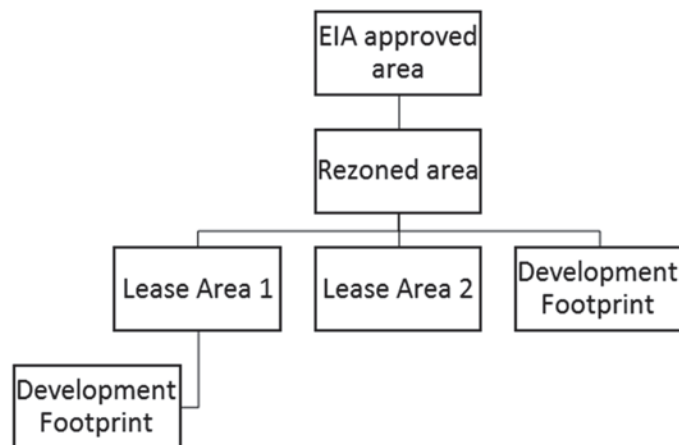
- Liaison with the Department of Water and Sanitation.
- Liaison with the Department of Mineral and Petroleum Resources.
- Liaison with the South African Heritage Resources Agency.
- Liaison with the Civil Aviation Authority (usually only relevant to CSP Tower developments).
- Liaison with Eskom.
- Liaison with Northern Cape Nature.

Should the Local Authority, however, feel that they want to refer the application to any of these bodies for comment, it is their prerogative to do so – this has however never been the case.

In terms of the development area on the farm, the following need to be considered:

- The rezoning area may not exceed the EA approved area.
- Various lease areas may be contained within the rezoning area, but no lease area may exceed the rezoning area.

The above may be seen in the following hierarchical order:



Furthermore, if Alpha, Bravo & Charlie are contained in one EIA study, then all three project may be contained in 1 land use change application. If, however, the 3 projects have been approached under 3 separate EIA's, 3 separate applications for land use change will have to be submitted.

We hope you find this in order. Please feel free to contact our office in the case of any further enquiries.

Yours Faithfully,

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Jacobus Treurnich (Pr.Pl.n. A/1689/2013)