

DECOMMISSIONING ACTIVITIES EXPLANATORY DOCUMENT

2018



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PURPOSE

This document provides a generic, user friendly clarification of the two decommissioning activities contained in Listing Notice 1 of the Environmental Impact Assessment Regulations, 2014, as amended. Decommissioning takes place during the final stage of a project life-cycle.

A degree of sustainable environmental planning is necessary before any decommissioning activities, as identified, would be allowed to commence. A development earmarked for decommissioning has been operational for some time, and as such i.e. the land or groundwater may have become polluted in response to the presence of the development infrastructure / activities. The decommissioning of one or all components of such a development would therefore have an effect on the environmental status quo, either in a positive or in a negative way. In this respect, the positive aspects of decommissioning must be maximised and the negative aspects avoided and/or minimized.

Decommissioning of such facilities, structures or infrastructure may i.e. pose a high risk of pollution. Alternatively the operation of the facility for many years may have caused environmental harm and i.e. soil or water pollution. Such pollution risk may have been exacerbated by poor design, environmental sensitivity of the construction site, modification without due consideration of the receiving environment and lack of or inadequate maintenance. For decommissioning of facilities, structures or infrastructure, other interests must also be taken into account, for example the future use of the site and adjacent land (i.e. use of land or adjacent land for schools, housing etc.).

The decommissioning of certain facilities, structures or infrastructure is identified in terms of activities 22 and 31 of LN 1. Such decommissioning subsequently requires environmental authorisation. Commencement with any of these activities prior to obtaining authorisation from the competent authority is prohibited and constitutes an offence.

DECOMMISSIONING

LN 1 defines decommissioning as *“to take out of active service permanently or dismantle partly or wholly, or closure of a facility to the extent that it cannot be readily re-commissioned.”*

The following decommissioning activities require Basic Assessment (as per LN 1):

<p>Activity 22</p>	<p>The decommissioning of any activity requiring -</p> <ul style="list-style-type: none"> (i) a closure certificate in terms of section 43 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002); or (ii) a prospecting right, mining right, mining permit, production right or exploration right, where the throughput of the activity has reduced by 90% or more over a period of 5 years excluding where the competent authority has in writing agreed that such reduction in throughput does not constitute closure. <p>but excluding the decommissioning of an activity relating to the secondary processing of a –</p> <ul style="list-style-type: none"> a. mineral resource, including the smelting, beneficiation, reduction, refining, calcining or gasification of the mineral resource; or b. petroleum resource, including the refining of gas, beneficiation, oil or petroleum products; – <p>in which case activity 31 in this Notice applies.</p>
<p>Activity 31</p>	<p>The decommissioning of existing facilities, structures or infrastructure for-</p> <ul style="list-style-type: none"> i. any development and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014; ii. any expansion and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014; iii.; iv. any phased activity or activities for development and related operation activity or expansion or related operation activities listed in this Notice or Listing Notice 3 of 2014; or v. any activity regardless the time the activity was commenced with, where such activity: <ul style="list-style-type: none"> (a) is similarly listed to an activity in (i) or (ii) above; and (b) is still in operation or development is still in progress; <p>excluding where-</p> <ul style="list-style-type: none"> (aa) activity 22 of this notice applies; or (bb) the decommissioning is covered by part 8 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies.

ACTIVITY 31 EXCLUSIONS

Paragraph (aa) excludes the decommissioning of existing facilities, structures or infrastructure from requiring EA for activities where a closure certificate, prospecting right, mining right or mining permit is required in terms of the MPRDA. Where this is the case, activity 22 of LN 1 will be triggered and the Department of Mineral Resources will be the Competent Authority in terms of Section 24C of NEMA.

Paragraph (bb) excludes the decommissioning of existing facilities, structures or infrastructure from requiring EA for activities where the land has been contaminated and such is covered by part 8 of the NEM: Waste Act, 2008 (NEMWA). Where this is the case, the relevant provisions of NEMWA apply.

EXAMPLES OF DECOMMISSIONING

1. Development with an operational component commenced on or after 08 Dec 2014. The facility will now be decommissioned.

DECOMMISSIONING ACTIVITY WILL BE TRIGGERED
<p>The applicant wishes to decommission an aquaculture facility <i>with a production output exceeding 20 000 kg per annum</i>. The aquaculture facility commenced on 20 December 2014.</p>
<p>Activity 6 of LN 1:</p> <p>The development and related operation of facilities, infrastructure or structures for aquaculture of—</p> <ul style="list-style-type: none">(i) <i>finfish, crustaceans, reptiles or amphibians, where such facility, infrastructure or structures will have a production output exceeding 20 000 kg per annum (wet weight);</i>(ii) <i>molluscs and echinoderms, where such facility, infrastructure or structures will have a production output exceeding 30 000 kg per annum (wet weight); or</i>(iii) <i>aquatic plants, where such facility, infrastructure or structures will have a production output exceeding 60 000 kg per annum (wet weight);</i> <p><i>excluding where the development of such facilities, infrastructure or structures is for purposes of sea-based cage culture in which case activity 7 in this Notice applies.</i></p>
<p>Activity 41 of LN 1:</p> <p>The expansion and related operation of facilities, infrastructure or structures for aquaculture of—</p> <ul style="list-style-type: none">(i) <i>finfish, crustaceans, reptiles or amphibians, where the annual production output of such facility, infrastructure or structures will be increased by 20 000 kg (wet weight) or more;</i>(ii) <i>molluscs and echinoderms where the annual production output of such facility, infrastructure or structures will be increased by 30 000 kg (wet weight) or more; or</i>(iii) <i>aquatic plants where the annual production output of such facility, infrastructure or structures will be increased by 60 000 kg (wet weight) or more;</i> <p><i>excluding where the expansion of facilities, infrastructure or structures is for purposes of sea-based cage culture in which case activity 42 in this Notice will apply.</i></p>



Both the development and expansion activity have an **operational component** within the activities (expansion and related operation and development and related operation activities). Decommissioning of the facility will therefore trigger activity 31 of LN 1.

2. Development without an operational component commenced on or after 08 Dec 2014. The facility will now be decommissioned.

DECOMMISSIONING ACTIVITY WILL NOT BE TRIGGERED

Eskom wishes to **decommission** a sub-station with transformers capable of converting 1500KV to 600KV.

Activity 11 of LN 1:

The **development of** facilities or infrastructure for the transmission and distribution of electricity—

- (i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts; or
- (ii) inside urban areas or industrial complexes with a capacity of 275 kilovolts or more;

excluding the development of bypass infrastructure for the transmission and distribution of electricity where such bypass infrastructure is —

- (a) temporarily required to allow for maintenance of existing infrastructure;
- (b) 2 kilometres or shorter in length;
- (c) within an existing transmission line servitude; and
- (d) will be removed within 18 months of the commencement of development.

Activity 47 of LN 1:

The **expansion of** facilities or infrastructure for the transmission and distribution of electricity where the expanded capacity will exceed 275 kilovolts and the development footprint will increase.



The development and expansion activities for the transmission and distribution of electricity **do not have an operational component** within the relevant listed activities (expansion and development listed activities).

Decommissioning of the facility will therefore not trigger activity 31 of LN1. In order for the decommissioning activity to be triggered, the wording of the development and expansion listed activities in question must include **“and related operation”**.

3. Decommissioning of a development with operational component – development commenced in 1974 and was still in operation on 08 December 2014.

DECOMMISSIONING ACTIVITY WILL BE TRIGGERED	
The applicant wishes to decommission a 20 mile cableway which was built in 1974 and was in operation from 1979 until current.	
<p>Activity 8 of LN 3: <i>“The development and related operation of above ground cableways and funiculars”</i></p> <p>Activity 20 of LN 3: <i>“The expansion and related operation of above ground cableways and funiculars where the development footprint will be increased”.</i></p>	
	<p><i>The development and expansion activity for above ground cableways and funiculars have an operational component within the relevant activities (expansion and related operation and development and related operation activities).</i></p> <p><i>Decommissioning of the facility will therefore trigger activity 31 of LN 1.</i></p>

APPLICABLE ACTIVITIES

Below are the activities that the decommissioning activity (either activity 22 or 31 of LN 1) can be applicable to:

Listing Notice 1									
2	3	4	5	6	7	8	10	14	16
20	21	25	33	37	38	39	40	41	42
43	46	51	53	57	58	59	60	65	
67, but only where an operational component applies as per the development and expansion listed activities above (and where relevant as per LN 2).									

Listing Notice 2									
2	3	4	5	7	14	17	18	19	20
25	29								

Listing Notice 3								
8	9	10	13	20	22	24	25	
26, but only where an operational component applies as per the development and expansion listed activities above.								

ACTIVITIES NOT APPLICABLE

Below are the activities that the decommissioning activity (either activity 22 or 31 of LN 1) **CAN NOT BE** applicable to:

Listing Notice 1									
1	9	11	12	13	15	17	18	19	19A
23	24	26	27	28	29	30	32	34	35
36	44	45	47	48	50	52	54	55	56
61	63	64	66						

Listing Notice 2									
1	6	8	9	11	12	13	15	16	23
24	26	27							

Listing Notice 3									
1	2	3	4	5	6	7	11	12	14
15	16	17	18	19	21	23			