



## **REPUBLIC OF NAMIBIA**

### **MINISTRY OF ENVIRONMENT, FORESTRY AND TOURISM**

**Thursday, 08 April 2021**

**RESPONSE BY HON. POHAMBA SHIFETA, MINISTER OF  
ENVIRONMENT, FORESTRY AND TOURISM TO QUESTIONS NO.  
47(03/03/21) RAISED  
BY HON. JOHANNES MARTIN**

**Hon. Speaker,  
Hon members**

I thank you for the opportunity to address this august House on the detailed questions brought forward by Hon. Martin on issues relating to sand and gravel mining activities at the Epale village, in the Oshikoto Regional Council.

Hon. Speaker,  
Before I provide answers to the specific questions posed by Hon. Martin, kindly permit me to first give some background to this subject matter and to clarify important issues surrounding sand and gravel mining in Namibia in general and in communal areas specifically for the benefit of the members of this house but also the public at large.

Hon. Speaker, I feel it is important to give this information as this particular issue has attracted much interest in Namibia and has caused some concerns to the communities and the government.

Sand and gravel mining is one of the listed activities that cannot be undertaken without an authorization from our Ministry through the Environmental Commissioner granting an environmental Clearance Certificate (ECC) in accordance with the Environmental Management Act (Act. No.7 of 2007). This activity is listed because of the potential negative

impacts it can impose on the environment and the livelihood of communities where it takes place.

Hon. Speaker, over the past years, we have seen and observed an unprecedented increase in demand for sand and gravel materials mainly for building and for roads construction. While this is a good development since it demonstrates progress when it comes to the construction industry in Namibia, it has however brought challenges in controlling and managing the access to this non-renewable resource.

Hon Speaker,

Let me admit that because of limited demand for sand and gravel resources in the past, the government did not have in place robust measures to control this activity. The situation has been worsened by the limited capacity of our Traditional Authorities, who are the custodians of our communal lands where most of these activities are taking place, to manage these activities.

However, in recent years, the Ministry has undertaken major interventions to address some of the past shortcomings that I just mentioned. I am happy to report to this house that:

- Our Ministry with support from our law enforcement agencies have managed to close off a number of illegal sites where sand mining activities were being carried out.
- The Ministry has also withdrawn and cancelled a number of ECCs where noncompliance with ECC conditions and environmental management plans was observed.
- In collaboration with a number of stakeholders, for example the Roads Authority and others, the Government has also managed to rehabilitate several borrow pits, some of which were very old and pre independence borrow pits. This exercise is continuing as we speak.

- The Government, through the MEFT, is currently in process of developing stand-alone “Sand and Gravel extraction Regulations” (SGER) under the Environmental Management Act (Act. No.7 of 2007) to effectively regulate and manage the sand and gravel mining activities in the country. This position has been arrived at following a national outcry and a number of complaints and conflicts related to how sand and gravel extractions activities were being managed nationwide. These incidents have not only caused serious destruction to the environment and loss of livelihoods to some communities but it has affected some developmental projects. Precious lives have been lost especially children playing in these unrehabilitated borrow pits, hence our reasons to enforce strict compliance.
- Once adopted, the “Sand and Gravel Extraction Regulations” will put in place strict measures and procedures, through the Traditional Authorities, that will be followed when it comes to sand and gravel mining.
- The regulations will also ensure that culprits are punished accordingly.

Hon Speaker,

I would also like to take this opportunity, Hon. Members to inform the public, especially our political leaders, that the Ministry of Environment, Forestry and Tourism is entirely open for information and more consultations on this matter and I therefore call upon our people to please approach our offices for any information and clarity on this and any other controversial issues so that you are correctly informed and do not contribute to the further spread of misinformation.

That being said, Hon. Speaker, allow me to respond in brief to the specific questions raised by Hon. Martin

### **Question 1**

**Are you aware of the appeal delivered to your office by Epale community members? If so, how do you justify the used Covid 19 attendance list your Ministry allowed as proof of mutual consent for OTA to acquire the ECC?**

### **Answer:**

I wish to assure the Hon. Martin that the Ministry of Environment, Forestry and Tourism in general and the office of the Minister, in particular, is fully aware of the appeal submitted to our office in terms of section 50 of the Environmental Management Act, 7 of 2007. The allegations raised in this appeal are receiving our attention in accordance with the procedures and guidelines governing the handling of such appeals. Our officials have already undertaken a number of site visits to investigate the submitted allegations and their findings will be used as an input for the hearing that will take place on this matter.

Unfortunately, all the appeals submitted to my office have to be dealt with on an equal and not on a first comes and first served basis. The Epale appeal will be heard when its turn arrives and I am sure that the Hon. Martin will understand that it will not be prioritized above other equally important appeals that the Ministry is handling.

With regard to the attendance list, we do not have any proof if the submitted attendance list is a Covid-19 attendance list or not. We carry out assessments of applications based on information that is submitted to our office. If there is wrong, information submitted to our office as part of any application, the Ministry will definitely take serious action against the applicant, including the withdrawal of the ECC.

## **Question 2**

**Who presided over the EIA report and where did the community meeting take place to present it? Who interpreted this report to the community members in order to make an informed judgment? Please provide this house with minutes of such a meeting.**

### **Answer:**

The requirements and processes for consultations with interested and affected parties are set out in the Environmental Management Act (2007), Act No. 7 of 2007 and its regulations. The Ministry of Environment, Forestry and Tourism is a regulatory authority and does not work with companies applying for environmental clearance. The company undertakes the process and the Ministry, through the Office of the Environmental Commissioner, assesses the application and decides whether to grant, refuse or grant with conditions environmental clearance for specific projects such as this one.

In case of ECC application for sand mining, the ministry does not require a detailed Environmental Impact Assessment study. The applicant is required to complete and submit a prescribed form, develop an environmental management plan and to provide proof of community consultation. These requirements were all met in this regard and are available from the Office of the Environmental Commissioner.

## **Question 3**

**The representatives of OTA (the applicant for the license) signed a proof of consent as part of the list of attendance as community members who attended the meeting. How does such application get approved?**

### **Answer:**

The current process outlines that the application can be submitted by the recognized traditional authority or by their appointed consultants. This is the same process that is being followed even for the activities where full EIA studies are required. By the design, the system puts faith on the applicant to truthfully submit applications and required information. The Office of Environmental Commissioner undertakes a verification process that include fieldwork to assess the site applied for before approval or rejection of an application. No wrongdoing was observed or suspected in this case.

#### **Question 4**

**It is evident that the applicant did this to boost the number of attendees. How did the Environmental Commissioner failed to pick up such irregularities?**

#### **Answer:**

As I mentioned before, by the design, the system puts faith on the applicant to truthfully submit applications and required information. The Office of Environmental Commissioner undertakes a verification process, which includes fieldwork to assess the site applied for before approval or rejection of an application. No wrongdoing was observed or suspected in this case. The suggestion by Hon Martin that the Ondonga Traditional Authority provided wrong information to the Office of the Environmental Commissioner and in support of their application is very serious and is an issue that our Ministry will take very seriously and investigate further.

#### **Question 5**

**Why does your Ministry allow applicants to chair meetings where they have vested interest in project in question? Does this not intimidate community members?**

**Answer:**

Hon. Speaker

Let me assume that the meeting Hon. Martin is referring to is the public consultation meeting, which is part of the Environmental Assessment process, conducted to enable Interested and Affected Parties an opportunity to raise any concern they might have regarding the proposed project. Hon. Speaker allow me to clarify that Regulation 2 of the Environmental Impact Assessment Regulations of the Environmental Management Act No. 7 of 2007 requires the proponent/ applicant to designate an Environmental Assessment Practitioner to manage the assessment process including officiating at public consultation meetings.

Hon. Speaker,

Hon members,

Stakeholders' consultation process focuses on discussing potential environmental impacts and considerations of the given project. It is not an opportunity to intimidate community members but rather to inform them of the project and to hear their concerns and views. Let me point out clearly that during the public consultation meeting with interested and affected parties, the proponent or the project developer plays a role by giving clarity about the proposed project to the meeting attendees, and his / her presence should not be confused with being there to intimidate community members.

Hon members I must point out clearly that this process is administered independently by projects proponents and their Environmental Assessment Consultants if any without the involvement of staff from MEFT.

**Question 6**

**How does your Ministry grant approval to applicants that have violated Section 21 – 23 of the Environmental Management Act of 2007?**

**Answer:**

Hon. Speaker;

Hon. Members

Let me clarify that Section 21 of the Environmental Management Act No. 7 of 2007 deals with Objections to Compliance Orders, which is a reaction to any compliance order issued by the Environmental Commissioner in terms



of Section 20 of the Environmental Management Act No. 7 of 2007. Section 22 deals with offences in relation to environmental officers and Section 23 deals with Objects of Environmental Plans, which aims to coordinate and harmonize, environmental policies, plans, programmes and decisions of various organs of state. With this clarification Hon Speaker, I am not sure what Hon. Martin is alluding to in terms of applicants violating these specific Sections.

### **Question 7**

**How did the former Oniipa Constituency Counsellor get permission to sign documents for this project when he does not hold duly authorized powers except the Chief Regional Officer of the Region? Did he receive that authorization on behalf of the CRO?**

### **Answer:**

Hon. Speaker;  
Hon members

In order to address concerns relating to the regulation of sand mining, the Ministry of Environment, Forestry and Tourism has engaged extensively with Traditional Authorities, Regional Councils, local Authorities and other stakeholders.

A new sand and gravel mining questionnaire was developed in 2018 as a key step in the application process for environmental clearance certificate.

This requires all sand mining applications to be approved at all levels of Traditional Leadership and the regional leadership before final approval by the Office of the Environmental Commissioner. Without the consent of the Traditional Authority, and the Regional Council no approval can be issued for sand mining applications in communal areas. Furthermore, it has been resolved that sand mining must not take place in crop fields in order to protect the livelihoods of local farmers and also not to compromise food security.

Let me clarify that Hon. Ngwena was a member of the Oshikoto Regional Council and a political head of the Oniipa Constituency within which Epale district is located. With devolution of power to local level as being spearheaded by the Government of the Republic of Namibia through the

Ministry of Urban and Rural Development, it was indeed right for Hon. Ngwena to sign the screening questionnaire for sand mining as a representative of the Oshikoto Regional Council in the Oniipa Constituency.

### **Question 8**

**Can your Ministry appraise this house and the public at large on the number of valid ECC / licenses given out for gravel and building sand in Oshikoto, Oshana and Ohangwena Regions?**

### **Answer:**

Hon. Speaker  
Hon. Members

I must point out that MEFT through the Office of the Environmental Commissioner has issued the following ECCs in the three regions with respect to the sand / gravel mining activity:

- Ohangwena – 2 ECCs awarded, 6 applications are currently under review.
- Oshana – 10 ECCs awarded, 10 application are currently under review.
- Oshikoto – 4 ECCs awarded, 7 applications are currently under review.

### **Question 9**

**The fees for applying to acquire ECC cost the applicants N\$ 300, while to appeal the issued certificate costs the appellant N\$ 1000. This is N\$ 700 difference, which sometimes deprive the community`s affordability to appeal illegal issued Sand Mining Certificates. Is the Ministry encouraging sand mining in this way?**

### **Answer**

Hon. Speaker  
Hon. Members

Allow me to emphatically make it clear that Section 50 of the EMA provides any person who is aggrieved by the decision of the Environmental Commissioner the opportunity to appeal to the Minister against the Environmental Commissioner's decision.

It is notable that the amounts referred to by Hon. Martin are for two different processes and it is not helpful to compare them and it is by no means a tactic to encourage sand mining as these fees are not only paid for activities related to sand mining.

The amount of N\$ 300 being paid as an application fees for Environmental Clearance Certificate is indeed low and is currently under review given the considerable workload involved in administering the applications.

However, it should be clear that the application process incurs a lot of other expenses for proponents linked to amongst others the consultative processes and studies required. In the past, it has previously been raised in this august house that this process is already too expensive and beyond the reach of many SMEs and smaller companies.

It should also be noted that community members and indeed any interested and affected party has the opportunity to register their objections to any project during the consultative process. The amount of N\$1,000 payable for appeals is certainly not intended to discourage appeals and has in fact been kept low with the intention to allow all our citizens to afford these services. It is also low when compare to the amount of work and resources required to effectively administer appeals. Any person intending to appeal is also likely to incur legal expenses linked to the appeal and therefore N\$1,000 is unlikely to be prohibitive to prospective appellants.

I thank you for your kind attention.