



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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No. 8486

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## General Notices

### NAMIBIAN COMPETITION COMMISSION

No. 663

2024

NOTICE OF DETERMINATION MADE BY THE COMMISSION  
IN RELATION TO THE PROPOSED MERGER:  
HAIER EUROPE APPLIANCES HOLD B.V. // ELECTROLUX SOUTH AFRICA  
PROPRIETARY LIMITED

CASE NO.: 2024AUG0047MER

Competition Act, 2003 (Act No. 2 of 2003)  
(Section 47(7), Rule 30)

1. The Commission has received notification of the abovementioned proposed merger on **23 August 2024**.
2. Note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if –
  - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
  - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**A. P. ITHINDI**  
**CHAIRPERSON**  
**NAMIBIAN COMPETITION COMMISSION**

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**NAMIBIAN COMPETITION COMMISSION**

No. 664

2024

NOTICE OF DETERMINATION MADE BY THE COMMISSION  
IN RELATION TO THE PROPOSED MERGER:  
EQUITUS INVESTMENTS (PTY) LTD (STURDEE NAMIBIA) //  
ALTEN SOLAR POWER (HARDAP) PTY LTD

CASE NO.: 2024JUL0046MER

Competition Act, 2003 (Act No. 2 of 2003)  
(Section 47(7), Rule 30)

1. The Commission has received notification of the abovementioned proposed merger on **23 July 2024**.
2. Note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if –
  - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
  - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**A. P. ITHINDI  
CHAIRPERSON  
NAMIBIAN COMPETITION COMMISSION**

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**NAMIBIAN COMPETITION COMMISSION**

No. 665

2024

NOTICE OF DETERMINATION MADE BY THE COMMISSION  
IN RELATION TO THE PROPOSED MERGER:  
JOINT VENTURE COMPANY // TUNGSTEN EXPLORER

CASE NO.: 2024JUL0044MER

Competition Act, 2003 (Act No. 2 of 2003)  
(Section 47(7), Rule 30)

1. The Commission has received notification of the above-mentioned proposed merger on **17 July 2024**.
2. Note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if –
  - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
  - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**A. P. ITHINDI  
CHAIRPERSON  
NAMIBIAN COMPETITION COMMISSION**

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**NAMIBIAN COMPETITION COMMISSION**

No. 666

2024

NOTICE OF DETERMINATION MADE BY THE COMMISSION  
IN RELATION TO THE PROPOSED MERGER:  
MERGER NOTIFICATION: DANIEL NICOLAAS VAN WYK AND  
MELANIE VAN WYK // TOSHARI CLOSE CORPORATION

CASE NO.: 2024AUG0050MER

Competition Act, 2003 (Act No. 2 of 2003)  
(Section 47(7), Rule 30)

1. The Commission has received notification of the abovementioned proposed merger on **30 August 2024**.

2. Note that the Commission has **approved the proposed merger with the following conditions:**

3. **DEFINITIONS**

The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings:

- 3.1 “**Acquiring Group**” means the total of all undertakings as defined in rule 27(1)(a)(b) and (c) as amended;
- 3.2 “**First Primary Acquiring Undertaking**” means Daniel Nicolaas van Wyk;
- 3.3 “**Second Primary Acquiring Undertaking**” means Melanie van Wyk;
- 3.4 “**Approval Date**” means the date on which the Merger is approved by the Commission;
- 3.5 “**Commission**” means the Namibian Competition Commission;
- 3.6 “**Competition Act**” means the Competition Act, 2003 (Act No. 2 of 2003);
- 3.7 “**Conditions**” mean the conditions set out herein;
- 3.8 “**Days**” means any calendar day other than a Saturday, a Sunday or an official public holiday in Namibia (i.e. business days);
- 3.9 “**Implementation Date**” means the date, expected to be subsequent to the Approval Date, on which the Merger is implemented by the Merged Undertaking;
- 3.10 “**Merged Undertaking**” means the Acquiring Undertakings and the Target Undertaking;
- 3.11 “**Merger**” means the implementation of the Proposed Transaction;
- 3.12 “**Proposed Transaction**” means the transaction that was notified to the Commission on 30 August 2024 that concerns the acquisition by the Acquiring Undertakings of the Target Undertaking;
- 3.13 “**Target Undertaking**” means Toshari Lodge Close Corporation;

4. **CONDITIONS TO THE APPROVAL OF THE MERGER**

- 4.1. Employment condition (the “**Employment Condition**”)
- 4.1.1 No merger specific retrenchments by the merged undertaking for a period of three years after the Implementation Date.
- 4.1.2 During the change of management, the merged undertaking shall ensure that all existing employees shall not be re-employed on terms less favourable than what exists and prevails on the approval date.
- 4.1.3 The condition shall not apply to any employee who may in the ordinary course of business be fired, be dismissed, retire, or resign.

**5. APPLICATION TO MINISTER OF AGRICULTURE, WATER AND LAND REFORM**

- 5.1 The merged undertaking shall, in terms of the Agricultural (Commercial) Land Reform Act 6 of 1995 apply to the Minister as defined in terms of the Agricultural (Commercial) Land Reform Act 6 of 1995, for a written certificate of waiver, wherein the State waives its preferred right to purchase agricultural land, prior to the implementation of the proposed transaction.

**6. MONITORING AND REPORTING PROCEDURES IN COMPLIANCE WITH THE CONDITIONS****The Employment Condition:***General*

- 6.1 The Merged Undertaking shall provide the following information to the Commission:
- 6.1.1 a list of all the employees at the target undertaking, which includes their full names, positions and relevant department or division, job grades and remuneration;
- 6.1.2 copies of the new employment contracts, under which the employees of the target undertaking are employed by the Merged Undertaking, for each job and position indicating the terms and conditions of employment. Where employment contracts are concluded verbally, these must be reduced to writing and where the terms and conditions of employment are not contained in the employment contracts, the Merged Undertaking must provide a written statement containing the terms and conditions in respect of each job and position; and

**Reporting dates**

- 6.2 In order for the Commission to monitor compliance with the Conditions, the Merged Undertaking shall provide the Commission with merger compliance reports on the following dates:
- 6.2.1 Evincing compliance with the Agricultural (Commercial) Land Reform Act 6 of 1995, and the outcome of the application for the certificate of waiver, within five (5) days of the outcome of such application;
- 6.2.2 10 March 2025;
- 6.2.3 Thereafter on a bi-annual basis, until the expiry of the conditions imposed.

**General**

- 6.3 The Merged Undertaking shall inform the Commission in writing of the Implementation Date within 5 (five) Days of its occurrence.
- 6.4 Should, for any reason, the merged undertaking decides or is prevented from implementing the merger, the merged undertaking shall inform the Commission in writing of such decision and/or prevention.
- 6.5 The merged undertaking shall submit affidavits (deposed to by its managing director(s)) in accordance with the reporting dates referred to above, to update the

- Commission and / or confirm its compliance with the conditions for the duration of all conditions.
- 6.6 The Commission may also request any additional information that may reasonably be required by the Commission to monitor compliance with the Conditions.
- 6.7 Note that the Commission has the authority in terms of section 48(1) of the Competition Act to revoke a decision approving the implementation of a proposed merger if –
- (a) the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or
  - (b) any condition attached to the approval of the merger that is material to the implementation is not complied with.
- 6.8 All correspondence in relation to the Conditions shall be submitted to the following email address: johannes.ashipala@nacc.com.na.
7. The Commission's decision is based on the grounds that the proposed transaction is likely to affect employment negatively due to a change in management, and further public interest considerations in terms of section 50 of the Competition Act, and such are grounds envisaged by section 47(2) of the Competition Act, 2003.
8. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if –
- (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
  - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**A. P. ITHINDI**  
**CHAIRPERSON**  
**NAMIBIAN COMPETITION COMMISSION**

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