



REFERENCE: 16/3/3/6/4/2/D2/6/0020/17
ENQUIRIES: Shireen Pullen
DATE OF ISSUE: 2017 -02- 07

The Director
Envirolution
PO Box 1898
SUNNINGHILL
2157

Attention: Ms. S. Bolingo


Tel: 0861 444499
Fax: 0861 626222
Email: sheila@envirolution.co.za

Dear Madam

DRAFT SCOPING REPORT AND PLAN OF STUDY FOR EIA: GOURIKWA TO BLANCO 400KV TRANSMISSION LINE AND SUBSTATION UPGRADE

1. The abovementioned document received by this Department on 12 January 2017 refers.
2. This letter serves as an acknowledgment of receipt of the abovementioned document by the Directorate: development Management (Region 3) of this Department.
3. This Department has reviewed the abovementioned document and the comment (Ref: 16/3/3/6/4/2/1/D2/6/0098/15) dated 22 February 2016 on the Final Scoping Report for the previous Environmental Impact Assessment process still stands and all the issues raised remains valid.
4. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.
5. This Department reserves the right to revise its initial comments and request further information from you based on any new or revised information received.

Yours faithfully



HEAD OF DEPARTMENT

Copy:

Ms. A. La Meyer

Development Facilitation unit (DFU)

Email: Adri.LaMeyer@westerncape.gov.za

Sheila Bolingo

From: admin@mosselbay.gov.za
Sent: Monday, February 06, 2017 8:05 AM
To: sheila@envirolution.co.za
Subject: FW: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Importance: High

Correspondence Reference: 3538046

File Reference: 16/2/4

ACKNOWLEDGEMENT / ONTVANGSERKENNING

We acknowledge receipt of your letter regarding the abovementioned matter and wish to confirm that the matter is receiving attention.

Ons erken ontvangs van u skrywe in bogemelde verband en bevestig dat die saak aandag geniet.

Yours faithfully / Die uwe

MOSEL BAY MUNICIPALITY
MOSELBAAI MUNISIPALITEIT

Mossel Bay Municipality email disclaimer:

<http://www.mosselbay.gov.za/disclaimer.htm>

Mossel Bay Municipality,
101 Marsh Street,
Mossel Bay,
6500,
South Africa

Tel: +27 44 606 5000

www.mosselbay.gov.za

Sheila Bolingo

From: Sheila Bolingo <sheila@envirolution.co.za>
Sent: Thursday, January 12, 2017 9:18 AM
To: 'Colin Fordham'
Subject: RE: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Morning Collin,

You are more than welcome, will look forward to your comments (if applicable).

Regards
Sheila

From: Colin Fordham [mailto:landuseadvicesouth@capenature.co.za]
Sent: Thursday, January 12, 2017 8:45 AM
To: Sheila Bolingo
Subject: RE: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Dear Sheila

Thank you for this notice.

Provided the contents of the reports haven't changed, our previous comments regarding the Gourikwa to Blanco 400kv Transmission Line remains unchanged.

Please note, that we do however reserve the right to change or modify our comments should we note any changes in the reports.

Regards,

Colin Fordham
Scientist: Land Use Advice | Scientific Services



tel +27 44 802 5329 | fax +27 44 802 5313 | cell +27 79 521 1911
email cfordham@capenature.co.za | postal Private Bag X6546, George, 6530
physical 4th Floor, York Park Building, York Street, George, 6530
www.capenature.co.za

From: Sheila Bolingo [mailto:sheila@envirolution.co.za]

Sent: 11 January 2017 16:35 PM

To: Sheila Bolingo <sheila@envirolution.co.za>

Subject: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Dear Interested and/or Affected Party,

Envirolution Consulting (Pty) Ltd was appointed by **Eskom Holdings SOC Limited** to conduct the Environmental Impact Assessment (EIA) Process for the above mentioned project. The EIA process for the project commenced in early 2015, this **application** has however **lapsed** in accordance with Regulation 23 (1) of the EIA Regulations, 2014 and a new EIA process is currently being initiated. *It must be noted that the contents of both the Draft Scoping and the Draft EIA report will not change as the scope of the project and the environment still remains the same unless if changes come about as a result of the public participation process.*

A **draft Scoping Report** (DSR) has been prepared by Envirolution Consulting and is available for public review. The review period is from **11 January 2017 – 10 February 2017**. You are invited to review the report at one of the following locations:

- The Envirolution website at www.envirolution.co.za
- Dropbox link: https://www.dropbox.com/sh/sn8au7hcq2aolzd/AACpYj9M6IINX3Un_LvJ4uM1a?dl=0
- George Public Library and Mossel Bay Public Library

Please submit written comment on or before **10 February 2017**. Please advise if your comments have remained the same or if you have additional or new comments. All comments received will be submitted in the final Scoping Report which will be submitted to the DEA for decision. Comments can be made as written submission via fax, post or e-mail.

Should you require a CD copy, please email us and this can be couriered to you on request.

We look forward to your participation and involvement throughout this process

Best Regards,

Sheila Bolingo
Environmental Consultant

Tel: 0861 44 44 99

Fax: 0861 62 62 22

sheila@envirolution.co.za

www.envirolution.co.za

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No 52 Cnr Vorster Avenue & Glen Avenue
Glenanda



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Sheila Bolingo

From: Sheila Bolingo <sheila@envirolution.co.za>
Sent: Friday, February 03, 2017 11:35 AM
To: 'MulaloSU@daff.gov.za'
Subject: RE: Draft Scoping Report for the proposed blanco to droerivier 400kv transmission line and substation upgrade in the western cape and the eastern cape provinces.

Follow Up Flag: Follow up
Flag Status: Flagged

Good day Mulalo

Thank you for your interest in these projects. Envirolution Consulting (Pty) Ltd was appointed by **Eskom Holdings SOC Limited** to conduct the Environmental Impact Assessment (EIA) Process for the following projects:

1. Blanco to Droerivier 400kv transmission line and substation upgrade in western cape and the eastern cape provinces
2. Gourikwa to Blanco 400kv transmission line and substation upgrade in western cape province

Draft Scoping Reports (DSR) has been prepared by Envirolution Consulting and is available for public review. The **review period** is from **11 January 2017 – 10 February 2017**. You are invited to review the report at one of the following links:

Blanco to droerivier

- https://www.dropbox.com/sh/sn8au7hcq2aolz/AACpYj9M6IINX3Un_LvJ4uM1a?dl=0
- <https://www.envirolution.co.za/index.php/public-participation/category/33-draft-scoping-report-gourikwa-to-blanco>

Gourikwa to Blanco

1. <https://www.envirolution.co.za/index.php/public-participation/category/34-blanco-to-droerivier-400kv-transmission-line>
2. <https://www.dropbox.com/sh/qkizvn590z43qax/AADtKtOGNmdTbzDPXFQN5seta?dl=0>

Please submit written comment on or before **10 February 2017**. Should you require a CD copy, please email us and this can be couriered to you on request

Best Regards,

Sheila Bolingo
Environmental Consultant

Tel: 0861 44 44 99
Fax: 0861 62 62 22
sheila@envirolution.co.za
www.envirolution.co.za

Vista Place Suite 1a & 2
No 52 Cnr Vorster Avenue & Glen Avenue
Glenanda



From: MulaloSU [<mailto:MulaloSU@daff.gov.za>]

Sent: 03 February 2017 10:24 AM

To: info@envirolution.co.za

Subject: Draft Scoping Report for the proposed blanco to droerivier 400kv transmission line and substation upgrade in the western cape and the eastern cape provinces.

Good Morning

My name is Mulalo Sundani from Department of Agriculture , Forestry and Fisheries (Pretoria : National office), hereby wish to request information regarding Draft Scoping Report for the proposed Blanco to Droerivier 400kv transmission line and substation upgrade in the Western Cape and the Eastern Cape Provinces.

Mulalo Sundani

Directorate: Forestry Regulation and Oversight

Designation: Environmental Impact Management

Department of Agriculture , Forestry and Fisheries

Cell: 0760216115

Tel: 012 309 5865

E-mail: Mulalosu@daff.gov.za

Mulalosu@gmail.com

Sheila Bolingo

From: Sheila Bolingo <sheila@envirolution.co.za>
Sent: Friday, January 20, 2017 3:10 PM
To: 'JacolineMa'
Subject: RE: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED BLANCO TO DROERIVIER 400KV TRANSMISSION LINE AND SUBSTATION UPGRADE IN THE WESTERN CAPE AND THE EASTERN CAPE PROVINCES

Thanks Jacoline, We will update our database with the relevant officials then.

Regards
Sheila

From: JacolineMa [<mailto:JacolineMa@daff.gov.za>]
Sent: Friday, January 20, 2017 2:44 PM
To: Sheila Bolingo
Subject: RE: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED BLANCO TO DROERIVIER 400KV TRANSMISSION LINE AND SUBSTATION UPGRADE IN THE WESTERN CAPE AND THE EASTERN CAPE PROVINCES

Dear Sheila

Thank you for the notifications, but I only comments on projects affecting protected trees in the Northern Cape Province, where I am stationed. I have forwarded your mail to our Pretoria Office (MulaloSU@daff.gov.za) and she can either comment on it or relay it to the relevant officials in the affected provinces.

Kind Regards,

Jacoline Mans

Designation: Chief Forester (NFARegulation)
Directorate: Forestry Management (Other Regions) Northern Cape
Department of Agriculture, Forestry and Fisheries

Tel: 054 338 5909
Fax: 054 334 0030
Web: www.daff.gov.za
E-mail: JacolineMa@daff.gov.za

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From: Sheila Bolingo [<mailto:sheila@envirolution.co.za>]
Sent: 11 January 2017 04:34 PM
To: Sheila Bolingo
Subject: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED BLANCO TO DROERIVIER 400KV TRANSMISSION LINE AND SUBSTATION UPGRADE IN THE WESTERN CAPE AND THE EASTERN CAPE PROVINCES

Dear Interested and/or Affected Party,

Envirolution Consulting (Pty) Ltd was appointed by **Eskom Holdings SOC Limited** to conduct the Environmental Impact Assessment (EIA) Process for the above mentioned project. The EIA process for the project commenced in early 2015, this **application** has however **lapsed** in accordance with Regulation 23 (1) of the EIA Regulations, 2014 and a new EIA process is currently being initiated. *It must be noted that the contents of both the Draft Scoping and the Draft EIA report will not change as the scope of the project and the environment still remains the same unless if changes come about as a result of the public participation process.*

A **draft Scoping Report** (DSR) has been prepared by Envirolution Consulting and is available for public review. The review period is from **11 January 2017 – 10 February 2017**. You are invited to review the report at one of the following locations:

- The Envirolution website at www.envirolution.co.za
- Dropbox link: <https://www.dropbox.com/sh/qkizvn590z43qax/AADtKtOGNmdTbzDPXFQN5seta?dl=0>
- George Public Library and Beaufort West Public Library

Please submit written comment on or before **10 February 2017**. Please advise if your comments have remained the same or if you have additional or new comments. All comments received will be submitted in the final Scoping Report which will be submitted to the DEA for decision. Comments can be made as written submission via fax, post or e-mail.

Should you require a CD copy, please email us and this can be couriered to you on request.

We look forward to your participation and involvement throughout this process

Best Regards,

Sheila Bolingo
Environmental Consultant

Tel: 0861 44 44 99

Fax: 0861 62 62 22

sheila@envirolution.co.za

www.envirolution.co.za

Vista Place Suite 1a & 2
No 52 Cnr Vorster Avenue & Glen Avenue
Glenanda



Sheila Bolingo

From: Andre Eagar <Andre.Eagar@dmr.gov.za>
Sent: Tuesday, February 07, 2017 11:15 AM
To: Sheila Bolingo
Subject: RE: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Sheila

Yes you may remove my name from those records.

Kind Regards

Andre Eagar
Communications Directorate
Department of Mineral Resources
Tel: (012) 444 3231
Fax: 0866245509



mineral resources

Department:
Mineral Resources
REPUBLIC OF SOUTH AFRICA



From: Sheila Bolingo [mailto:sheila@envirolution.co.za]
Sent: 06 February 2017 03:19 PM
To: Andre Eagar
Subject: RE: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Thank you Andre, we will include the relevant authorities from province in our database for the project going forward. Please advise if I should remove your details for future correspondences in this regards.

Regards
Sheila

From: Andre Eagar [mailto:Andre.Eagar@dmr.gov.za]
Sent: Monday, February 06, 2017 10:24 AM
To: Sheila Bolingo
Subject: RE: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Dear Sheila

Their details are on our website.

Ask for the Mineral Law Officers concerned.

Kind Regards

Andre Eagar
Communications Directorate
Department of Mineral Resources
Tel: (012) 444 3231
Fax: 0866245509



mineral resources

Department:
Mineral Resources
REPUBLIC OF SOUTH AFRICA



From: Sheila Bolingo [<mailto:sheila@envirolution.co.za>]

Sent: 06 February 2017 10:17 AM

To: Andre Eagar

Subject: RE: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Dear Andre

Please can you assist me the relevant contact person details in this regard so we can include them in our database.

Regards

Sheila

From: Andre Eagar [<mailto:Andre.Eagar@dmr.gov.za>]

Sent: Monday, February 06, 2017 10:10 AM

To: Sheila Bolingo

Subject: RE: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Dear Shilo

Please communicate directly with our Western Cape and Eastern Cape Regional Offices?

Kind Regards

Andre Eagar
Communications Directorate
Department of Mineral Resources
Tel: (012) 444 3231
Fax: 0866245509



mineral resources

Department:
Mineral Resources
REPUBLIC OF SOUTH AFRICA



From: Sheila Bolingo [<mailto:sheila@envirolution.co.za>]

Sent: 03 February 2017 04:44 PM

To: Sheila Bolingo

Subject: FW: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Importance: High

Dear Organ of States

This is a gentle reminder that you have till Friday the 10 February 2017 to submit your comments on the above project. Should you not have additional comments, please advise accordingly. Just to reiterate that no technical changes have been made to the reports (from the previous application that lapsed) and all your comments received up to date will be integrated into the final SR/EIA (where applicable) for submission to the DEA.

We look forward to your comments.

Regards
Sheila

From: Sheila Bolingo [<mailto:sheila@envirolution.co.za>]

Sent: Wednesday, January 11, 2017 4:35 PM

Subject: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

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- Dropbox link: https://www.dropbox.com/sh/sn8au7hcq2aolz/AACpYj9M6IINX3Un_LvJ4uM1a?dl=0
- George Public Library and Mossel Bay Public Library

Please submit written comment on or before **10 February 2017**. Please advise if your comments have remained the same or if you have additional or new comments. All comments received will be submitted in the final Scoping Report which will be submitted to the DEA for decision. Comments can be made as written submission via fax, post or e-mail.

Should you require a CD copy, please email us and this can be couriered to you on request.

We look forward to your participation and involvement throughout this process

Best Regards,

Sheila Bolingo
Environmental Consultant

Tel: 0861 44 44 99

Fax: 0861 62 62 22

sheila@envirolution.co.za

www.envirolution.co.za

Vista Place Suite 1a & 2
No 52 Cnr Vorster Avenue & Glen Avenue
Glenanda



Sheila Bolingo

From: Sheila Bolingo <sheila@envirolution.co.za>
Sent: Tuesday, January 24, 2017 8:50 AM
To: 'Nina@edendm.co.za'
Subject: RE: Draft scoping and EIA reports: Blanco to Droerivier/Gourikwa to Blanco Transmission Lines

Morning Nina

Thank you for your interest in this project. I have registered you on the data base and will provide you with information as we proceed. Please find the dropbox link below for both projects.

Gourikwa to Blanco : https://www.dropbox.com/sh/sn8au7hcg2aolz/AACpYj9M6IINX3Un_LvJ4uM1a?dl=0
Blanco to Droerivie: <https://www.dropbox.com/sh/qkizvn590z43qax/AADtKtOGNmdTbzDPXFQN5seta?dl=0>

Best Regards,
Sheila Bolingo
Environmental Consultant

Tel: 0861 44 44 99
Fax: 0861 62 62 22
sheila@envirolution.co.za
www.envirolution.co.za

Vista Place Suite 1a & 2
No 52 Cnr Vorster Avenue & Glen Avenue
Glenanda



From: Nina Viljoen [<mailto:Nina@edendm.co.za>]
Sent: 24 January 2017 08:21 AM
To: info@envirolution.co.za
Subject: Draft scoping and EIA reports: Blanco to Droerivier/Gourikwa to Blanco Transmission Lines

Dear Sheila Bolingo

With regards to the above mentioned scoping and EIA reports, I am struggling to access your website as it states that the account has expired. Could you please send me the dropbox link to the documents.

Could you also register me as a I&AP for the Eden District Municipality for commenting on all future projects.

Thank you!

Kind Regards

Nina Viljoen

Specialist: Environmental Management (MSc, *Cum Laude*)

Eden District Municipality - Community Services

(w) 044 803 1529

Website: www.edendm.co.za Facebook: [Click here to visit our fanpage](#)

Address: Head Office: Office C42, 54 York Street, George, 6529, Western Cape, South Africa

Postal Address: P.O. Box 12, George, Western Cape, South Africa, 6530



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Sheila Bolingo

From: Nina Viljoen <Nina@edendm.co.za>
Sent: Wednesday, February 08, 2017 9:29 AM
To: Sheila Bolingo
Subject: Draft scoping and EIA reports: Blanco to Droerivier/Gourikwa to Blanco Transmission Lines
Attachments: Eden DM Letter of Comments_Eskom Transmission Line Projects.pdf

Dear Me Bolingo

NEW APPLICATION AND DRAFT SCOPING REPORT FOR THE PROPOSED PROJECTS:

- (1) **BLANCO TO DROERIVIER 400KV TRANSMISSION LINE AND SUBSTATION UPGRADE;**
AND
(2) **GOURIKWA TO BLANCO 400KV TRANSMISSION LINE AND SUBSTATION UPGRADE**

Attached please receive the comments from the Eden District Municipality for the above application.

Kind Regards

Nina Viljoen

Specialist: Environmental Management (MSc, *Cum Laude*)

Eden District Municipality - Community Services

(w) 044 803 1529

Website: www.edendm.co.za Facebook: [Click here to visit our fanpage](#)

Address: Head Office: Office C42, 54 York Street, George, 6529, Western Cape, South Africa

Postal Address: P.O. Box 12, George, Western Cape, South Africa, 6530



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NAVRAE: N VILJOEN
ENQUIRIES:
KONTAKNR 044 803 1529
CONTACT NO
VERW: 18/3/4/4
REF:
KANTOOR: GEORGE
OFFICES:
DATUM 08 February 2017
DATE



Me S. Bolingo
Envirolution Consulting
PO Box 1898
Sunninghill
2157

Dear Me S. Bolingo

NEW APPLICATION AND DRAFT SCOPING REPORT FOR THE PROPOSED PROJECTS:

- (1) BLANCO TO DROERIVIER 400KV TRANSMISSION LINE AND SUBSTATION UPGRADE; AND**
- (2) GOURIKWA TO BLANCO 400KV TRANSMISSION LINE AND SUBSTATION UPGRADE**

The Eden District Municipality would like to thank you for providing this Department with the new application and draft scoping report for the two Eskom transmission line projects as mentioned above, and would like to provide the following comments:

- The Eden District Municipality recognises the high positive impact on the regional economy and the resultant socio-economic benefits to be achieved through this projects.
- The Municipality therefore has no objection to the proposed development provided that:
 - The proposed mitigation measures as indicated in the Scoping Reports be adhered to.

The Eden District Municipality reserves the right to provide comment or to amend initial comments.

Yours sincerely,


(pp) C AFRICA
ACTING MUNICIPAL MANAGER

Sheila Bolingo

From: Andrew T September <Andrew.September@westerncape.gov.za>
Sent: Wednesday, January 18, 2017 7:59 AM
To: Lita Webley
Cc: Zwelibanzi Shiceka; Sheila Muniongo
Subject: RE: Gourikwa-Blanco (15033005AS0331M) and Blanco-Droerivier (15033001AS0331M) powerlines - EIA has lapsed, reports need to be re-submitted

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Lita

New applications to HWC will not be necessary as we will (after today) have reviewed and commented the development and the associated HIA. We will note, depending on the outcome of today's meeting, our comments will stand for this case.

Kind Regards

Andrew September (Heritage Officer)
Heritage Western Cape
3rd Floor Protea Assurance Building
Greenmarket Square
Cape Town
8001

From: Lita Webley [<mailto:lita.webley@aco-associates.com>]
Sent: 17 January 2017 04:10 PM
To: Andrew T September; Zwelibanzi Shiceka; Sheila Muniongo
Subject: Gourikwa-Blanco (15033005AS0331M) and Blanco-Droerivier (15033001AS0331M) powerlines - EIA has lapsed, reports need to be re-submitted

Dear Andrew and Zwelibanzi

I need your advice, Envirolution has just contacted me to tell me that the EIA process for the above powerlines has lapsed, and they will need to re-submit the HIA reports for both powerlines to HWC for comment.

As you know, the Blanco-Droerivier powerlines report was assessed by the IACom in October 2016, and the final comment is dated November 2016.

The Gourikwa-Blanco powerline report was assessed by the IACom in October 2016, and they asked for further details (issued an interim comment). It will be assessed for a second time tomorrow (18 January 2017).

The two projects have not changed at all.

However, the client wants new comments from HWC on the existing reports. Must the client to pay the R1100 application fee for each report? Would HWC be prepared to issue a comment on each report for a second time?

Regards

Lita Webley

--

Dr Lita Webley
ACO Associates
8 Jacobs Ladder
St James
7945
Tel: 021 706 4104



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Sheila Bolingo

From: Sheila Bolingo <sheila@envirolution.co.za>
Sent: Monday, January 16, 2017 10:55 AM
To: 'Mapaseka Lukhele Transnet Corporate JHB'
Subject: RE: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Morning Mapaseka

Please try either of the link below and let me know if you still unable to open them so I can make alternative arrangement to send a CD copy to you.

- https://www.dropbox.com/sh/sn8au7hcq2aolz/AACpYj9M6IINX3Un_LvJ4uM1a?dl=0
- <https://www.envirolution.co.za/index.php/public-participation/category/33-draft-scoping-report-gourikwa-to-blanco>

Regards
Sheila

From: Mapaseka Lukhele Transnet Corporate JHB [<mailto:Mapaseka.Lukhele@transnet.net>]
Sent: Thursday, January 12, 2017 2:53 PM
To: Sheila Bolingo
Subject: RE: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Hi Sheila

Please note that I have tried to download the document from your website but I was unsuccessful.

Thanks
Mapaseka

From: Sheila Bolingo [<mailto:sheila@envirolution.co.za>]
Sent: 11 January 2017 04:35 PM
To: Sheila Bolingo
Subject: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Dear Interested and/or Affected Party,

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Should you require a CD copy, please email us and this can be couriered to you on request.

We look forward to your participation and involvement throughout this process

Best Regards,

Sheila Bolingo
Environmental Consultant

Tel: 0861 44 44 99
Fax: 0861 62 62 22
sheila@envirolution.co.za
www.envirolution.co.za

Vista Place Suite 1a & 2
No 52 Cnr Vorster Avenue & Glen Avenue
Glenanda



Sheila Bolingo

From: Sheila Bolingo <sheila@envirolution.co.za>
Sent: Thursday, February 09, 2017 3:06 PM
To: 'Arthur Cockcroft'
Subject: RE: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Good day Arthur,

Regarding you previous below on the placement of the vulture within your farm, please note aCorridor of 2 km in width has been assessed for each alternative and should this project be approved, an important component of the project would be to fine-tune the 55m servitude design (placement of the footprints) in terms of the receiving environment in the approved corridor of 2km wide. This would require a walk-down of the line and subsequent negotiations with all land owners to ascertain how the impacts on their properties can be mitigated, e.g through relocation of infrastructure, compensation or other acceptable measures. Construction will not be possible before agreements have been reached with all the affected land owners along the entire route. Therefore at the time of the negotiations due consideration will be given to the placement of the line relative to the area you will be placing your vultures, also generally Eskom prefers to align new line infrastructure with existing line (where technically feasible) as this can reduce environmental impacts considerably.

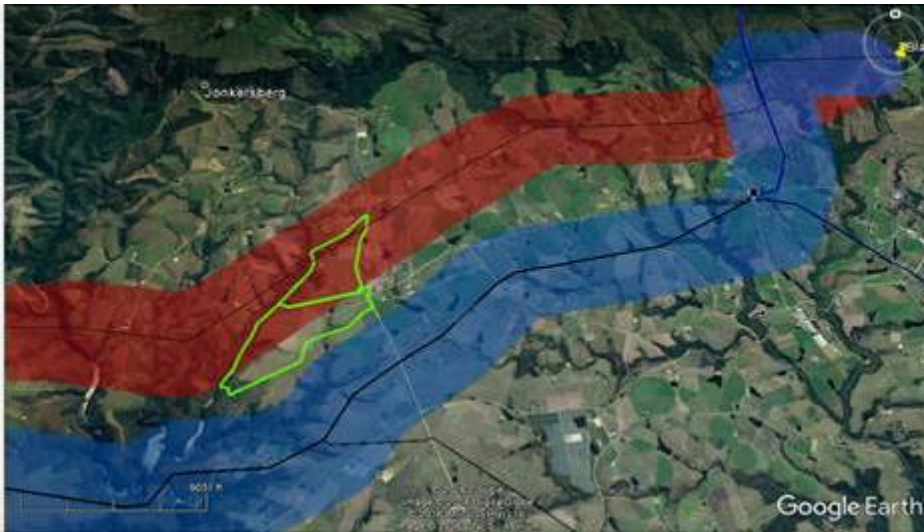
Regards
Sheila

From: Sheila Bolingo [mailto:sheila@envirolution.co.za]
Sent: Thursday, February 09, 2017 11:21 AM
To: 'Arthur Cockcroft'
Subject: RE: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Good day Mr Cockcroft

Your email below has reference.

The Picture below shows your farm boundary relative to the proposed line alternate 1 for the above project(red). Kindly advise where about in your farm do you plan on placing the vultures on the said farm.



From: Arthur Cockcroft [<mailto:langspruit@lantic.net>]

Sent: Tuesday, February 07, 2017 5:59 PM

To: 'Sheila Bolingo'

Subject: RE: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Good day Sheila

Thank your for your CD, although we still cannot imagine what a line will do to our eco project if it is on the wrong space on our Farm. We draw your attention to our first writing where we stipulate facts about the project.

I can only add that we are in negotiation to bring vultures back to our farm and your condideration to visit our farm and advice us to where the best spaces for Eco tourism and Escom lines will be.

Our personal view is to put the line next to existing lines already bordering us.

Your sincere consideration will be appreciated.

Regards

ARTHUR COCKCROFT
UITKYK
GEORGE
6530
0825729865 c

From: Sheila Bolingo [<mailto:sheila@envirolution.co.za>]

Sent: Wednesday, January 11, 2017 4:35 PM

To: Sheila Bolingo

Subject: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Dear Interested and/or Affected Party,

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Should you require a CD copy, please email us and this can be couriered to you on request.

We look forward to your participation and involvement throughout this process

Best Regards,

Sheila Bolingo
Environmental Consultant

Tel: 0861 44 44 99
Fax: 0861 62 62 22
sheila@envirolution.co.za
www.envirolution.co.za

Vista Place Suite 1a & 2
No 52 Cnr Vorster Avenue & Glen Avenue
Glenanda



Sheila Bolingo

From: Sheila Bolingo <sheila@envirolution.co.za>
Sent: Thursday, January 12, 2017 8:20 AM
To: 'Andrew Moolman'
Subject: RE: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Morning Andrew,

Ok will do.

From: Andrew Moolman [<mailto:atmoolman@gmail.com>]
Sent: Thursday, January 12, 2017 12:22 AM
To: Sheila Bolingo
Subject: Re: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Hi,

I trust you are well,

I am struggling with internet access at the moment. Could you please send me a CD with the Draft Scoping Reports etc.

Please send it to my Business address just to make it easy to pick up.

Address to follow;

Group Editors Building
Ring Rd
George Industria
6529

Please mark for Attention Andrew Moolman

Thank you in advance for your help,

Regards

Andrew Moolman

Sent from my iPhone

On 11 Jan 2017, at 4:34 PM, Sheila Bolingo <sheila@envirolution.co.za> wrote:

Dear Interested and/or Affected Party,

Envirolution Consulting (Pty) Ltd was appointed by **Eskom Holdings SOC Limited** to conduct the Environmental Impact Assessment (EIA) Process for the above mentioned project. The EIA process for the project commenced in early 2015, this **application** has however **lapsed** in accordance with Regulation 23 (1) of the EIA Regulations, 2014 and a new EIA process is currently being initiated. *It must be noted that the contents of both the Draft Scoping and the Draft EIA report will not change as the scope of the project and the environment still remains the same unless if changes come about as a result of the public participation process.*

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We look forward to your participation and involvement throughout this process

Best Regards,

Sheila Bolingo
Environmental Consultant

Tel: 0861 44 44 99
Fax: 0861 62 62 22
sheila@envirolution.co.za
www.envirolution.co.za

Vista Place Suite 1a & 2
No 52 Cnr Vorster Avenue & Glen Avenue
Glenanda

<image001.jpg>

Sheila Bolingo

From: Sheila Bolingo <sheila@envirolution.co.za>
Sent: Thursday, January 12, 2017 5:08 PM
To: 'Elie Enslin'
Subject: RE: Gourikwa to Blanco Tr Line

Hi Elie,

Please try either of the link below

- https://www.dropbox.com/sh/sn8au7hcq2aolzD/AACpYj9M6IINX3Un_LvJ4uM1a?dl=0
- <https://www.envirolution.co.za/index.php/public-participation/category/33-draft-scoping-report-gourikwa-to-blanco>

If all the fail, please send me your Postal address and I will send you a CD copy.

Regards
Sheila

From: Elie Enslin [<mailto:elienslin@gmail.com>]
Sent: Thursday, January 12, 2017 12:41 PM
To: sheila@envirolution.co.za
Subject: Gourikwa to Blanco Tr Line

Dear Shiela

Please help me to read your report; I have tried your website but could not find it.

Thank you

E H Enslin

0824567651

DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Sheila Bolingo

From: Sheila Bolingo <sheila@envirolution.co.za>
Sent: Friday, February 03, 2017 4:15 PM
To: Shireen.pullen@westerncape.gov.za
Subject: RE: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Importance: High

Dear Shirleen,

This is a gentle reminder that you have till Friday the 10 February 2017 to submit your any additional comments on the above project.

Should you not have additional comments, please advise accordingly. Just to reiterate that no technical changes have been made to the reports and all your comments received up to date will be integrated into the final SR/EIA (where applicable) for submission to the DEA.

Regards
Sheila

From: Sheila Bolingo [<mailto:sheila@envirolution.co.za>]
Sent: Wednesday, January 11, 2017 4:35 PM
Subject: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

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We look forward to your participation and involvement throughout this process

Best Regards,

Sheila Bolingo
Environmental Consultant

Tel: 0861 44 44 99

Fax: 0861 62 62 22

sheila@envirolution.co.za

www.envirolution.co.za

Vista Place Suite 1a & 2
No 52 Cnr Vorster Avenue & Glen Avenue
Glenanda



Sheila Bolingo

From: Sheila Bolingo <sheila@envirolution.co.za>
Sent: Friday, February 03, 2017 4:19 PM
To: Stanley Tshitwamulomoni (STshitwamulomoni@environment.gov.za)
Subject: FW: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Importance: High

Dear Stanley,

This is a gentle [reminder](#) that you have till [Friday the 10 February 2017](#) to [submit your additional comments](#) on the above project.

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We look forward to your comments.

Regards
Sheila

From: Sheila Bolingo [<mailto:sheila@envirolution.co.za>]
Sent: Wednesday, January 11, 2017 4:35 PM
Subject: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

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Best Regards,

Sheila Bolingo
Environmental Consultant

Tel: 0861 44 44 99

Fax: 0861 62 62 22

sheila@envirolution.co.za

www.envirolution.co.za

Vista Place Suite 1a & 2
No 52 Cnr Vorster Avenue & Glen Avenue
Glenanda



Sheila Bolingo

From: Sheila Bolingo <sheila@envirolution.co.za>
Sent: Friday, February 03, 2017 4:20 PM
To: 'cabrahams@bgcma.co.za'
Subject: FW: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Importance: High

Dear Carlo,

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We look forward to your comments.

Regards
Sheila

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Sent: Wednesday, January 11, 2017 4:35 PM
Subject: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

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Fax: 0861 62 62 22

sheila@envirolution.co.za

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No 52 Cnr Vorster Avenue & Glen Avenue
Glenanda



File Message ESET

This message was sent from agrisa@agriinfo.co.za. To view all messages or to open the original flagged message.

From: Sheila Bolingo [mailto:sheila@envirolution.co.za] Sent: Fri 03-Feb-17 4:44 PM

To: agrisa@agriinfo.co.za

Cc: 'agrisa@agriinfo.co.za'; 'Enquiries@dmr.gov.za'; 'thokob@daff.gov.za'; 'NgobenIT@dwa.gov.za'; 'Clareen.Collins@drdlr.gov.za'; 'asalomon@sahra.org.za'; 'Dekodr@nra.co.za'; 'peter.novellie@sanparks.org'; 'strohl@caa.co.za'; 'petrov@elsenburg.com'; 'Pieter.vanZyl@pgwc.gov.za'; 'reservation.alert@capenature.co.za'; 'Transport.Publicworks@westerncape.gov.za'; 'Rudolf.VanJaarsveldt@westerncape.gov.za'; 'petrov@elsenburg.com'; 'reservation.alert@capenature.co.za'; 'Transport.Publicworks@westerncape.gov.za'; 'mm@edendm.co.za'; 'Nina@edendm.co.za'; 'trevor@george.org.za'; 'corlize@george.org.za'; 'delia@george.org.za'; 'gpretorius@george.gov.za'; 'admin@mosselbay.gov.za'; 'dcilliers@mosselbay.gov.za'; 'ekruger@mosselbay.gov.za'; 'annatjievren@gmail.com'; 'adellemijn@mosselbay.gov.za'; 'groenewaldbarrie@gmail.com'; 'cbayman@mosselbay.gov.za'

Subject: FW: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

Dear Organ of States

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Regards
Sheila

From: Sheila Bolingo [<mailto:sheila@envirolution.co.za>]
Sent: Wednesday, January 11, 2017 4:35 PM
Subject: DRAFT SCOPING REPORT AVAILABILITY FOR THE PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

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Click on a photo to see social network updates and email messages from this person.

Sheila Bolingo

From: Sheila Bolingo <sheila@envirolution.co.za>
Sent: Wednesday, February 08, 2017 3:21 PM
To: 'xfrans@mosselbay.gov.za'
Subject: DSR FOR THE PUBLIC REVIEW: GOURIKWA TO BLANCO POWER LINE AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE
Attachments: Review of SR document Register_11 Jan 2017_BD.docx; Mossel Bay Library DSR Covering Letter_GB.pdf
Importance: High

Dear Xoliswa

A Draft Scoping Report (DSR) for the above project was couriered to the Mossel Bay Library for public reviewing (please find attached cover letter). Within the report there was a register document for comments (attached).

Please advise if any comments have been received thus far as the review period ends on Friday the 10 February.

Best Regards,

Sheila Bolingo
Environmental Consultant

Tel: 0861 44 44 99
Fax: 0861 62 62 22
sheila@envirolution.co.za
www.envirolution.co.za

Vista Place Suite 1a & 2
No 52 Cnr Vorster Avenue & Glen Avenue
Glenanda



Sheila Bolingo

From: Sheila Bolingo <sheila@envirolution.co.za>
Sent: Wednesday, February 08, 2017 3:32 PM
To: 'rachel@george.org.za'
Subject: DSR FOR THE PUBLIC REVIEW: GOURIKWA -BLANCO-DROERIVIER POWER LINE AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE
Attachments: Review of SR document Register_11 Jan 2017_GB.docx; Geoge Library DSR Covering Letter_both.pdf
Importance: High

Dear Rachel

Draft Scoping Reports (DSR) x2 for the above projects was couriered to the George West Public Library for public reviewing (please find attached cover letter). Within the report there was a register document for comments (attached).

Please advise if any comments have been received thus far as the review period ends on Friday the 10 February.

Best Regards,

Sheila Bolingo
Environmental Consultant

Tel: 0861 44 44 99
Fax: 0861 62 62 22
sheila@envirolution.co.za
www.envirolution.co.za

Vista Place Suite 1a & 2
No 52 Cnr Vorster Avenue & Glen Avenue
Glenanda



Sheila Bolingo

From: Andre Swart <Andre@stadlers.co.za>
Sent: Monday, February 13, 2017 9:33 AM
To: 'Sheila Bolingo'; 'info@environlution.co.za'
Subject: RE: DRAFT SCOPING REPORTS: PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE / PROPOSED BLANCO TO DROERIVIER 400KV TRANSMISSION LINE AND SUBSTATION UPGRADE IN THE WESTERN CAPE AND THE EASTERN CAPE PROVINCES

Attachments: Annexure A and B (Comments).pdf; Comments on Draft Scoping Reports (Combined) Correct 10.02.2017.pdf

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Sheila,

Attached hereto find the correct version of our Client's consolidated comments on the abovementioned draft reports. Will you please disregard the comments sent to you on Friday.

Kind regards,

ANDRE SWART
Attorney, Notary and Conveyancer

1 Doneraile Street, George
PO Box 46, George, 6530
Tel: 044 874 4090
Fax: 044 874 0026
Cell: 082 452 3353





ENVIROOLUTION CONSULTING (PTY) LTD

Telefoon/Telephone (044) 8744090
Faks/Fax (044) 8740026
Docex 18 George

1 Donerailestraat/Street
George, 6529
Posbus / P O Box 46, George, 6530
BTW nr /VAT no: 4650139472

PER EMAIL: info@envirolution.co.za
sheila@envirolution.co.za

Our ref.: AHS/CVDL/G197-19628
Your ref.:
Date: 10 February 2017
Email: andre@stadlers.co.za
Page: 1 of 18

Dear Sir / Madam,

**COMMENTS AND REPRESENTATIONS ON DRAFT SCOPING REPORT FOR THE PROPOSED
GOURIKWA TO BLANCO 400KV TRANSMISSION LINE AND SUBSTATION UPGRADE**

**COMMENTS AND REPRESENTATIONS ON DRAFT SCOPING REPORT FOR THE PROPOSED
BLANCO (NARINA) TO DROERIVIER 400KV TRANSMISSION LINE AND SUBSTATION
UPGRADE**

- [1] We act on behalf of Geelhoutboom Estate (Pty) Ltd (Registration Number 2004/009498/07) (the 'Client').
- [2] Eskom proposes the establishment of a Gourikwa to Blanco 400Kv transmission line and substation upgrade as well as a Blanco (Narina) to Droërivier 400Kv transmission line and substation upgrade.
- [3] Envirolution Consulting (Pty) Ltd (the EAP) has been appointed by Eskom Holdings SOC Ltd (Eskom) to undertake an environmental application process for the proposed projects.

- [4] As a registered Interested and Affected Party, our Client was furnished with a copy of the draft Scoping Reports (the ‘Draft Environmental Reports’) prepared by the EAP, which reports are dated January 2017.
- [5] This letter constitutes our Client’s comments on the Draft Environmental Reports as envisaged in terms of Regulation 43(1) of the Environmental Impact Assessment Regulations published in Government Notice No R982 of 4 December 2014 (the EIA Regulations)¹.
- [6] Due to the fact that both Draft Environmental Reports contain the same material flaws and lack of information, our Client will combine its comments to both reports in this consolidated letter.
- [7] The purpose of these comments is to demonstrate that the Draft Environmental Reports in material respects do not comply with the mandatory requirements of the National Environmental Management Act No 107 of 1998 (the NEMA) and the EIA Regulations.
- [8] The environment application of Eskom is subject to scoping and environmental impact reporting as envisaged in Part 3 of Chapter 4 of the EIA Regulations.
- [9] Our Client submits that the instances of non-compliance with the EIA Regulations are to such extent material and fatal to the environmental applications of Eskom that the competent authority will be constrained to act in terms of Regulation 22(b)(ii) should Eskom not comply with Appendix 2 within the prescribed period. Regulation 22(b)(ii) provides as follows:

‘22. *The competent authority must, within 43 days of receipt of a scoping report—*

(b) refuse environmental authorisation if—

(i) ...

(ii) if the scoping report does not substantially comply with Appendix 2 to these Regulations and the applicant is unwilling or unable to ensure compliance with these requirements within the prescribed timeframe.’

- [10] We have advised our Client that it will in the circumstances not be open to Eskom to redress the flaws of the Draft Environmental Reports in the next phase of the environmental application process

¹ All references to regulations will be references to the 2014 EIA Regulations.

namely the Environmental Impact Assessment phase. Any such attempt will constitute a collapsing of the distinct phases of the Environmental Application Process which will be unlawful.

[11] In these comments we will focus only on the material instances of non-compliance as our Client is as a result thereof, not in a position to comprehensively comment on all relevant issues. Our Client reserves the right to deal with other issues of concern at an appropriate stage and once the Draft Environmental Reports have been duly revised.

[12] Below we will deal with:

12.1 The context of the Eskom Environmental Applications and the fragmentation thereof;

12.2 Legislative Scheme:

12.2.1 Planning Legislation;

12.2.2 NEMA;

12.2.3 EIA Regulations.

12.3 Non-compliance with the NEMA:

12.3.1 Lack of Information;

12.3.2 Alternatives;

12.3.3 Need and Desirability.

12.4 Vested Rights

CONTEXT OF THE ENVIRONMENTAL APPLICATIONS

[13] Our Client submits that the environmental applications which form the subject matters of the Draft Environmental Reports, cannot be considered separate and distinct from each other and the environmental application of Eskom for the proposed Narina (Blanco) 400/132Kv MTS Substation and Droërivier Proteus Loop-In Loop-Out Powerline Project within the Blanco Area. The three relevant environmental applications form a core component of the larger Eskom grid in the Western Cape. Our Client submits that the fragmented manner in which the three environmental applications

are processed constitutes a total collapse of the Environmental Application Processes, which makes it almost impossible for Interested and Affected Parties to understand and comment on the applications. Our Client submits that all three of Eskom's environmental applications should be consolidated and processed in an integrated manner.

[14] In various parts of the Draft Environmental Reports, the EAP represents that the environmental authorisation for the proposed Narina (Blanco) 400/132Kv MTS Substation and Droërivier Proteus Loop-In Loop-Out Powerline Project within the Blanco Area has been granted by the competent authority on 1 September 2016, but that the substation has not yet been constructed. Differently put, the Draft Environmental Reports suggest to Interested and Affected Parties that the approval of the Narina (Blanco) MTS Substation is a fact. This position is legally incorrect and misleading. On 21 October 2016, our Client submitted a comprehensive appeal against the Narina approval, which has the effect that such approval is suspended and may be set aside on appeal by the MEC. In view of the grounds of appeal against the Narina approval, any purported approval by the MEC on appeal will be challenged by our Client in judicial review proceedings.

[15] The setting aside of the Narina approval or even the variation thereof, may have a material impact on the current environmental applications. Hence the reason why our Client submits that the three environmental applications should at least be processed simultaneously and an integrated decision making process be followed.

[16] Eskom's environmental applications are complex and difficult to understand from a technical perspective. The EAP has totally neglected and refused to give any details to Interested and Affected Parties regarding the strategic planning context of the applications and to do so in terms which will be understandable to the average reader.

[17] As will be explained in the paragraphs that follow, the EIA Regulations prescribe that the contents of a Scoping Report must include a description of the policy and legislative context. Item 2(e) of Appendix 2 to the EIA Regulations provides as follows:

‘2. *A scoping report must contain the information that is necessary for a proper understanding of the process, informing all preferred alternatives, including location alternatives, the scope of the assessment, and the consultation process to be undertaken through the environmental impact assessment process, and must include—*

(e) *a description of the policy and legislative context within which the development is proposed including an identification of all legislation, policies, plans, guidelines,*

spatial tools, municipal development planning frameworks and instruments that are applicable to this activity and are to be considered in the assessment process'

[18] We will deal in more detail with the legislative scheme in the paragraphs that follow.

LEGISLATIVE SCHEME

Planning Legislation

[19] In terms of Item 2(e) of Appendix 2, it is a mandatory requirement that the Draft Environmental Reports must contain a description of the policy and legislative context as well as an identification of all legislation and guidelines. Our Client submits that a mere identification of applicable legislation is not sufficient, but the actual policy and legislative context must be properly described. The Draft Environmental Reports do not at all comply with this requirement.

[20] Our Client submits that the Draft Environmental Reports must also deal with the legislation providing for spatial planning and land use.

[21] Eskom's applications in this matter are essentially applications for the erection of buildings and structures on land and constitute '*land development*' as defined in the Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA). The term '*land development*' is defined in SPLUMA as follows:

“land development” means the erection of buildings or structures on land, or the change of use of land, including township establishment, the subdivision or consolidation of land or any deviation from the land use or uses permitted in terms of an applicable land use scheme'

[22] Section 33(1) provides as follows:

'33(1) Except as provided in this Act, all land development applications must be submitted to a municipality as the authority of first instance.'

[23] From the Draft Environmental Reports it appears that the environmental applications were not submitted to the different local and district municipalities with jurisdiction.

[24] The reason why it is of specific importance that the description of the legislative context in the Draft Environmental Reports should in some detail deal with the applicable planning legislation, is because Eskom will require planning approvals from the municipalities, in terms of the applicable

Municipal Planning By-Laws read with the applicable Zoning Scheme Regulations. Our Client submits that at least the land comprising the infrastructure including the footprints of the substations and pylons, will have to be rezoned to an appropriate zoning which provides for electricity infrastructure.

[25] Section 26(1) of SPLUMA provides as follows:

‘26(1) An adopted and approved land use scheme—

(a) has the force of law, and all land owners and users of land, including a municipality, a state owned enterprise and organs of state within the municipal area are bound by the provisions of such a land use scheme.’

[26] Almost all properties impacted upon by the Eskom applications are zoned for agricultural purposes and our Client submits that the applicable zoning schemes do not allow infrastructure, such as the kind that Eskom proposes to erect, without the required planning approvals. It is *inter alia* for this reason that applications of this kind must be submitted with the different municipalities with jurisdiction.

[27] In terms of Section 55(1) of the SPLUMA, only the Provincial Government or a municipality may apply to the Minister of Rural Development and Land Reform for exemption from the provisions of SPLUMA if it is in the public interest to do so. All Provincial Governments and municipalities with jurisdiction will have to apply for such exemptions. Eskom does not have any power to make such applications.

[28] In addition to the planning approvals required for the Eskom infrastructure, Eskom will also require an approval from the Head of the Department of Environmental Affairs and Development Planning, as envisaged in terms of Section 53(1) of the Land Use Planning Act 3 of 2014 (LUPA) or an exemption from the Provincial Minister. Section 53(5) provides as follows:

‘53(5) An approval by the Head of Department of a land development application does not release an applicant from the obligation to obtain the required approval from the municipality for the land development.’

[29] Eskom and the EAP have furthermore neglected to refer the environmental applications to the Minister of Rural Development and Land Reform as required in Section 52 of SPLUMA.

[30] Section 52(1) of SPLUMA provides as follows:

‘52(1) Subject to the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), a land development application must be referred to the Minister where such an application materially impacts on—

- (a) matters within the exclusive functional area of the national sphere in terms of the Constitution;*
- (b) strategic national policy objectives, principles or priorities, including food security, international relations and cooperation, defence and economic unity; or*
- (c) land use for a purpose which falls within the functional area of the national sphere of government.’*

[31] It is important to note that electricity generation, transmission and distribution falls within the exclusive national competency of Government.

[32] Our Client submits that it is incumbent on Eskom and the EAP to explain the abovementioned legislative context, as prescribed in Item 2(e) of Appendix 2. Planning applications, ie rezoning, consent and departure applications can only be submitted by landowners. This needs to be properly explained in the Draft Environmental Reports.

[33] Furthermore, our Client submits that in all likelihood the title deeds of a large number of the involved properties and farms will contain title conditions which restricts the land use to that of Agriculture. Planning approvals cannot be granted in conflict of prevailing title conditions. Our Client therefore submits that Eskom will have to peruse all title deeds to ensure that the proposed land use is not in contravention thereof and will have to explain in some detail in the Draft Environmental Reports what the statutory requirements are for the removal of such restrictive title conditions.

[34] Eskom will not be able to circumvent the aforementioned statutory requirements by means of expropriations.

[35] The significant impacts on the study area of the environmental applications include impacts on agriculture, tourism, heritage resources and visual impacts. Our Client submits that the Spatial Development Frameworks (SDFs) which find application in respect of the study areas of the environmental applications, designate almost all land concerned for agricultural purposes and not for the kind of electricity infrastructure that Eskom now proposes to construct on the affected farms. The

proposed Eskom infrastructure and use thereof is clearly in conflict with the designation of such properties for agricultural purposes, in terms of the application SDFs. This conflict is described in some detail in both Draft Environmental Reports.

[36] Our Client also submits that the applicable SDF's specifically provide that valuable agricultural land should be protected, tourism promoted and that the heritage and visual landscapes be protected. The Eskom applications are in stark contrast with the aforementioned guidelines in the applicable SDFs.

[37] As remarked above, Eskom's proposed infrastructure development constitutes '*land development*' as envisaged in terms of the SPLUMA. Section 22(1) of SPLUMA provides as follows:

'22(1) A Municipal Planning Tribunal or any other authority required or mandated to make a land development decision in terms of this Act or any other law relating to land development, may not make a decision which is inconsistent with a municipal spatial development framework.'

[38] Any planning application (ie rezoning, consent use or departure application) will have to be consistent with the applicable SDFs of the municipalities with jurisdiction.

[39] Section 19(2) and (3) of LUPA provides as follows:

'19(2) If a spatial development framework or structure plan does not specifically provide for the utilisation or development of land as proposed in a land use application or a land development application, but the proposed utilisation or development is not in conflict with the purpose of the relevant designation in the spatial development framework or structure plan, the utilisation or development is regarded as being consistent with that spatial development framework or structure plan.

(3) If the proposed utilisation or development of land in a land use application or a land development application does not comply with and is not consistent with the relevant designation for the utilisation of land in an applicable spatial development framework or structure plan, the proposed utilisation or development deviates from that spatial development framework or structure plan.'

[40] It is clear that the proposed utilisation of the land concerned deviates from the applicable SDFs, which will necessitate an amendment of the SDFs before the municipality with jurisdiction will be entitled to approve any planning application of Eskom.

*NEMA**Section (23)(1), (2)(b) and (c)*

- [41] For ease of reference and for the benefit of providing appropriate emphasis, we will repeat the applicable provisions contained in the NEMA, as well as the EIA Regulations and will make appropriate cross-references thereto in these comments.
- [42] An Environmental Impact Assessment (EIA) is an Environmental Management Tool to ensure the integrated environmental management of activities which may have a significant negative impact on the environment.
- [43] Section 23 specifically deals with the purpose and general objective of integrated environmental management and constitutes the statutory framework within which all EIA's must be undertaken.
- [44] Section 23(1), (2)(b) and (c) provides as follows:

'23(1) The purpose of this Chapter is to promote the application of appropriate environmental management tools in order to ensure the integrated environmental management of activities.

(2) The general objective of integrated environmental management is to—

- (a) promote the integration of the principles of environmental management set out in section 2 into the making of all decisions which may have a significant effect on the environment;*
- (b) identify, predict and evaluate the actual and potential impact on the environment, socioeconomic conditions and cultural heritage, the risks and consequences and alternatives and options for mitigation of activities, with a view to minimising negative impacts, maximising benefits, and promoting compliance with the principles of environmental management set out in section 2;*
- (c) ensure that the effects of activities on the environment receive adequate consideration before actions are taken in connection with them.'*

Section 24(4)

[45] The mandatory minimum procedural requirements for an EIA of the kind in this matter, are contained in Section 24(4)(b)(i) which *inter alia* provides as follows:

‘24(4) Procedures for the investigation, assessment and communication of the potential consequences or impacts of activities on the environment -

(b) must include, with respect to every application for an environmental authorisation and where applicable -

(i) investigation of the potential consequences or impacts of the alternatives to the activity on the environment and assessment of the significance of those potential consequences or impacts, including the option of not implementing the activity;

[46] The Appellant submits that the following principles of environmental management, as set out in Section 2, is of specific application in this matter:

‘2(3) Development must be socially, environmentally and economically sustainable.

(4)(b) Environmental management must be integrated, acknowledging that all elements of the environment are linked and interrelated, and it must take into account the effects of decisions on all aspects of the environment and all people in the environment by pursuing the selection of the best practicable environmental option.’

[47] In terms of Section 1, the phrase “*best practical environmental option*” is defined as follows:

“the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term”;

[48] The EIA Regulations need to be interpreted and complied with within the framework of the aforementioned provisions of NEMA.

EIA Regulations

[49] The regulatory framework which applies to the environmental applications of Eskom is that prescribed in the EIA Regulations. The environmental applications of Eskom are applications which are subject to Scoping and Environmental Impact Report (S&EIR).

[50] In its previous comments on the Narina Application, our Client repeatedly complained that the EAP and Eskom failed to comply with various mandatory provisions of the Regulations as far as the contents of the Draft Environmental Reports are concerned. Neither the EAP nor Eskom has responded to such complaints.

[51] Regulation 21(3) and Item 2(e), (f) and (h) of Appendix 2 state as follows:

‘21(3) A scoping report must contain all information set out in Appendix 2 to these Regulations.’

‘2. A scoping report must contain the information that is necessary for a proper understanding of the process, informing all preferred alternatives, including location alternatives, the scope of the assessment, and the consultation process to be undertaken through the environmental impact assessment process, and must include—

(e) a description of the policy and legislative context within which the development is proposed including an identification of all legislation, policies, plans, guidelines, spatial tools, municipal development planning frameworks and instruments that are applicable to this activity and are to be considered in the assessment process;

(f) a motivation for the need and desirability for the proposed development including the need and desirability of the activity in the context of the preferred location;

(h) a full description of the process followed to reach the proposed preferred activity, site and location within the site, including—

(i) details of all the alternatives considered;

(ii) details of the public participation process undertaken in terms of regulation 41 of the Regulations, including copies of the supporting documents and inputs;

- (iii) *a summary of the issues raised by interested and affected parties, and an indication of the manner in which the issues were incorporated, or the reasons for not including them;*
- (iv) *the environmental attributes associated with the alternatives focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;*
- (v) *the impacts and risks identified for each alternative, including the nature, significance, consequence, extent, duration and probability of the impacts, including the degree to which these impacts—*
 - (aa) *can be reversed;*
 - (bb) *may cause irreplaceable loss of resources; and*
 - (cc) *can be avoided, managed or mitigated;*
- (vi) *the methodology used in determining and ranking the nature, significance, consequences, extent, duration and probability of potential environmental impacts and risks associated with the alternatives;*
- (vii) *positive and negative impacts that the proposed activity and alternatives will have on the environment and on the community that may be affected focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;*
- (viii) *the possible mitigation measures that could be applied and level of residual risk;*
- (ix) *the outcome of the site selection matrix;*
- (x) *if no alternatives, including alternative locations for the activity were investigated, the motivation for not considering such and*
- (xi) *a concluding statement indicating the preferred alternatives, including preferred location of the activity'*

[52] It is to be noted that the prescribed contents of scoping reports are mandatory and leave no discretion to the EAP or Eskom.

[53] As far as non-compliance with Item 2(e) is concerned (legislative context), we refer to what we have stated in Paragraph 19 above.

NON-COMPLIANCE WITH THE NEMA

Lack of Information

[54] As far as the disclosure of information is concerned, the EIA Regulations impose certain mandatory duties on the EAP. Reference is made to Regulation 13(1)(f), which states as follows:

‘13(1) An EAP and a specialist, appointed in terms of regulation 12 (1) or 12 (2), must—

(f) disclose to the proponent or applicant, registered interested and affected parties and the competent authority all material information in the possession of the EAP and, where applicable, the specialist, that reasonably has or may have the potential of influencing—

(i) any decision to be taken with respect to the application by the competent authority in terms of these Regulations; or

(ii) the objectivity of any report, plan or document to be prepared by the EAP or specialist, in terms of these Regulations for submission to the competent authority;

unless access to that information is protected by law, in which case it must be indicated that such protected information exists and is only provided to the competent authority.’

[55] From the environmental applications it appears that the Eskom Transmission Grid Planning Unit initiated a study to investigate possible solutions to address transformation and network constraints. It appears that this study served as the basis of the alternatives proposed by Eskom. Our Client submits that details of the aforementioned study must be disclosed to the competent authority and Interested and Affected Parties, including the possible solutions identified in the study. Eskom is obliged to disclose the strengthening options which were considered, including details of the various upgrades of infrastructure.

[56] Our Client submits that the Eskom Transmission Grid Study constitutes material information which informed the alternatives identified in the Eskom environmental applications. In terms of Regulation 13(1), the EAP must disclose the contents of the Eskom Transmission Grid Study to Interested and Affected Parties. If the EAP is not in possession of the aforementioned study, it will follow that the EAP, in preparing the Draft Environmental Reports, merely acted on the dictates of Eskom.

[57] Further examples, for illustrative purposes, of the absence of material information are the following extracts from the Gourikwa to Blanco Scoping Report:

'2.2 ... Various combinations of 400 kV and 765 kV Transmission lines were assessed for the loading scenarios at Gourikwa. Results showed that loading will result in islanding of the Gourikwa power station in one scenario, and the islanding of the power station together with the Blanco and Proteus Transmission Substations in the second scenario. This means that if the project does not go ahead, then increased power generation at Gourikwa will overload the grid and cut off power supply from the power station. Therefore, in order to ensure that Gourikwa is Grid Code compliant, a third line needs to be built out of the facility. Three options for the proposed third line were considered.

When all three options were technically evaluated, the line into Droërvier Substation via Blanco Substation was preferred based on the natural path for the power to flow. This can be attributed to the future generation in the Cape Peninsula and surrounding area. This option is also in alignment with the proposed second Droërvier – Proteus 400 kV line as per the Technical Development Plan. For the Gourikwa-Blanco option, a 400 kV Transmission line from Gourikwa to Blanco (which is the next closest load centre) will have to be established.'

[58] In terms of Item 2(h)(i) of Appendix 2, the Draft Environmental Reports must give a full description of the process followed to reach the proposed preferred activity. Details of all alternatives considered must be disclosed. We will deal in more detail with non-compliance as far as alternatives are concerned below. Eskom and the EAP will have to provide the competent authority and Interested and Affected Parties with details and proof of the investigations undertaken with full disclosure of the content thereof and a proper motivation why no other potential alternatives exist. All strategic documents and information must be made available to Interested and Affected Parties.

[59] The manner in which Eskom has processed its environmental applications to date totally undermines the Public Participation Process. Regulation 40(2) provides as follows:

‘(2) *The public participation process contemplated in this regulation must provide access to all information that reasonably has or may have the potential to influence any decision with regard to an application unless access to that information is protected by law and must include consultation with—*

(a) *the competent authority;*

(b) *every State department that administers a law relating to a matter affecting the environment relevant to an application for an environmental authorisation;*

(c) *all organs of state which have jurisdiction in respect of the activity to which the application relates;*

and

(d) *all potential, or, where relevant, registered interested and affected parties.’*

[60] Regulation 14(5)(a) and (b) *inter alia* deals with the instance where an EAP refuses or neglects to disclose material information and prescribes as follows:

‘(5) *If, after considering the matter, there is reason for the competent authority to believe that there is noncompliance with regulation 13 by the EAP or specialist, the competent authority must, in writing, inform the interested and affected party who notified the competent authority in terms of subregulation (2), the EAP or specialist and the applicant accordingly and may—*

(a) *refuse to accept any further reports, plans, documents or input from the EAP or specialist in respect of the application in question;*

(b) *request the applicant to—*

(i) *commission, at own cost, an external review, by another EAP or specialist that complies with the requirements of regulation 13, of any reports, plans or documents prepared or processes conducted in connection with the application;*

(ii) *appoint another EAP or specialist that complies with the requirements of regulation 13 to redo any specific aspects of the work done by the previous*

EAP or specialist in connection with the application or to complete any unfinished work in connection with the application; or

(iii) take such action as the competent authority requires to remedy the defects.'

Alternatives

[61] Reference is made to Item 2(h)(i) of Appendix 2 quoted above. In addition to what we have stated above regarding the absence of material information in respect of alternatives, our Client submits that the Draft Environmental Reports lack a full description of the process followed to reach the proposed preferred activity and the details of all alternatives considered.

[62] Our Client submits that it was incumbent upon Eskom to identify all potential alternatives and then to assess those alternatives which are considered to be reasonable and feasible. The EIA Guideline and Information Document Series (Guideline on Alternatives) of the Western Cape Department of Environmental Affairs and Development Planning contains the following guideline as far as the identification and investigation of alternatives are concerned:

'Detailed information on the consideration of alternatives must, however, be provided in the relevant reports. In this regard (a) the methodology, (b) criteria used to identify, investigate and assess alternatives (these must be consistently applied to all alternatives), and (c) a reasoned explanation why an alternative was or was not found to be reasonable and feasible must be provided.'

[63] The following guidelines as far as alternatives are concerned are contained in Guideline 5: Assessment of Alternatives and Impacts of the Department of Environmental Affairs:

'I&As must be provided with an opportunity of providing inputs into the process of formulating alternatives. Once a full range of potential alternatives has been identified, the alternatives that could be reasonable and feasible should be formulated as activity alternatives for further consideration during the basic assessment or scoping and EIA process.'

The number of alternatives that are selected for assessment should not be set arbitrarily, but should be determined by the range of potential alternatives that could be reasonable and feasible and should include alternatives that are real alternatives to the proposed activity.'

[64] The fact that the Gourikwa or Droërivier substations may already exist, is no reason why Eskom is not obliged to identify and assess other alternatives. Furthermore, the mere existence of current

infrastructure does not constitute a '*motivation*' as envisaged in terms of Item 2(h)(x) of Appendix 2 for not consideration alternatives.

- [65] Our Client submits that it was incumbent on the EAP and Eskom to disclose detailed information on the consideration of all potential alternatives. Both the EAP and Eskom failed to do so.
- [66] The Regulations oblige the EAP and Eskom to provide a reasoned motivation why alternatives identified as potential alternatives were not considered to be reasonable and feasible. This is not a matter which is at all in the discretion of Eskom or EAP.
- [67] Our Client furthermore submits that all identified potential alternatives must be "*comparatively considered*" and then those alternatives found to be "*feasible and reasonable*" must be "*comparatively assessed*". Interested and affected parties must then be afforded an opportunity to provide comments on the aforementioned comparative considerations and assessments.

Need and Desirability

- [68] In terms of Item 2(f) of Appendix 2, a description of the need and desirability in any environmental reports is also a mandatory requirement.
- [69] The need and desirability of the proposed activity is described in the Draft Environmental Reports exclusively with reference to the Eskom Transmission Grid Planning study. As remarked above, Eskom is obliged to disclose the Eskom study as such study is pivotal to a proper understanding of the need and desirability of the project and also the identification of alternatives. The contents of the Grid Planning Study will afford Interested and Affected Parties an opportunity to know whether all potential alternatives have been identified and to understand the reasoning process why only certain of those potential alternatives were considered to be reasonable and feasible. Our Client submits that this is a fatal flaw to the environmental applications of Eskom.
- [70] The concept of need and desirability can be explained in terms of the meaning of its two components in which "need" refers to time and "desirability" refers to place. Put differently, is this the right time and is it the right place for locating the type of activity proposed by Eskom.
- [71] Our Client and Interested and Affected Parties simply cannot know or ascertain what the need and desirability of the alternatives are in the absence of the Eskom study. It appears that the Eskom Transmission Grid Planning Study was produced during 2012, in other words before the start of the Environmental Application process.

- [72] The desirability of the proposed activity turns on the “*placing*” thereof. The question is whether the proposed activity is the best practicable environmental option for the specific sites. As remarked above, according to the NEMA the “*best practicable environmental option*” means the option that provides the most benefit and causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term. In determining the best practical environmental option, adequate consideration must also be given to opportunity cost.
- [73] Our Client submits that the need and desirability of any development proposal must be considered within the appropriate strategic context, namely the SDF of any particular municipality. As argued above, our Client submits that the Eskom development proposal is inconsistent with the SDFs of the relevant municipalities which has the consequence, in terms of Section 22 of LUPA, that the involved municipalities will not be able to grant any planning approval, including any rezoning of any property, unless the relevant SDF has been properly amended to designate the land concerned for purposes of Eskom infrastructure. Our Client therefore submits that in the current circumstances it is not possible for Eskom to properly motivate the need and desirability of the proposed development, especially in the absence of material information not being included in the Draft Environmental Reports.
- [74] In terms of Item 2(d) of Appendix 2, the Draft Environmental Reports must contain a description of the scope of the proposed activities including ‘*associated structures and infrastructure*’. The Draft Environmental Reports do not properly describe what associated structures or infrastructure would be required and disclose relevant information. The Draft Environmental Reports do refer to substation upgrades in vague and approximate terms.

VESTED LAND USE RIGHTS

- [75] The vested land use rights of the Client have not been dealt with in the Environmental Application of Eskom, but were totally disregarded. This constitutes a fatal flaw to the Environmental Application of Eskom.
- [76] The Draft Environmental Reports represent that all properties are zoned for agricultural purposes. This constitutes a misrepresentation as far as our Client’s properties are concerned.
- [77] We attach hereto as **Annexure A**, a rezoning approval of the then Provincial Administration of the Cape of Good Hope, dated 11 August 1993, in which the rezoning of Portions 1 and 3 of the Farm 318, from Agricultural Zone 1 to Resort Zone II, for the development of 50 holiday accommodation units was approved. The aforementioned approval was granted in terms of Section 16 of the Land

Use Planning Ordinance No. 15 of 1985, subject to various conditions. We specifically refer to Condition 1.4, which states as follows:

“Dat die 50 eenhede slegs opgerig mag word nadat die dam gebou is, alhoewel daar met die voorbereiding van die boupersele van die chalets en die infrastruktuur ‘n aanvanggemaak mag word gelyktydig met die bou van die dam; met dienverstande dat twee eenhede dadelik opgerig mag word na goedkeuring van die projek”.

- [78] The first units were duly constructed, infrastructure installed and the land use rights locked-in.
- [79] The layout of the approved Resort Zone II units is indicated on **Annexure B** attached hereto. The competent authority is specifically alerted to the fact that the power lines has been proposed almost immediately adjacent to the resort units. The competent authority needs to be mindful of the critical fact that no servitudal rights exist in favour of Eskom over our Client’s properties. Our Client records that in view of its vested land use rights, that it will not be amenable to grant any consent to Eskom to register any kind of servitude over its properties. The Client will resist and challenge any attempt by Eskom or the National Government to expropriate any servitude or land owned by the Client.
- [80] The Client’s property rights and specifically the Resort Zone II Use Rights, constitute “*property*” as envisaged in terms of Section 25 of the Constitution. Section 25(1) to (3) of the Constitution provides as follows:
- 25(1) *No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.*
- (2) *Property may be expropriated only in terms of law of general application-*
- (a) *for a public purpose or in the public interest; and*
- (b) *subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.*
- (3) *The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including –*

- (a) *the current use of the property;*
- (b) *the history of the acquisition and use of the property;*
- (c) *the market value of the property;*
- (d) *the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and*
- (e) *the purpose of the expropriation.*

The primary use rights which attach to a property in terms of a Resort Zone II zoning, is that of “*holiday housing*”, which is defined in the Scheme Regulations applicable to the property as follows:²

“Holiday housing” means a harmoniously designed and built holiday development with an informal clustered layout which may include the provision of a camping site, mobile homes or dwelling units, and where the housing may be rented out or may be separately alienated by means of time sharing, sectional title division, the selling of block shares or the subdivision of the property on condition that a home owners’ association be established, but does not include a hotel or motel’.

[81] As set out above, the Client will not consent to any servitude which may be required by Eskom over its property. Apart from the instance of actual expropriation, our Client submits that the implementation of the Eskom proposal over its properties will effectively result in a constructive expropriation of the Resort Land Use Rights, which attach to Portion 1 and 3. Such opportunity cost will in the circumstances be totally irrational and at a cost totally unacceptable to society in the long term as well as the short term. The Client therefore submits that the alternatives proposed are not the “*best practical environmental option*”.

[82] Our Client submits that the alignment of the power lines will make the sustainable development of the resort units impossible. Eskom is a state owned utility which must comply with the Occupational Health and Safety Act 85 of 1993, as well as the applicable management systems in accordance with ISO 9001, ISO14001 and the OHSAS 1800 requirements. Our Client submits that Eskom will not be able to implement any of the alternatives consistent with the aforementioned legislation and systems.

² The Scheme Regulations made in terms of Section 8 of the Western Cape Land Use Planning Ordinance 15 of 1985 find application in respect of the properties.

- [83] In view of the fact that the alternatives will be implemented substantially in a residential resort, it will have far reaching occupational health and safety consequences as far as adverse impacts of electrical and magnetic fields are concerned, as well as the general safety of humans living in the resort.
- [84] Should Eskom's environmental application be approved, our Client will be entitled to constitutional compensation as envisaged in terms of Section 25(3) of the Constitution. The competent authority is specifically alerted to the fact that the current Land Use Rights of the properties, as well as the market value thereof, constitutes relevant factors which will determine the compensation to which the appellant will be entitled to in terms of Section 25(3) of the Constitution.
- [85] As far as Constitutional compensation is concerned, reference is made to condition 1.4 of the Rezoning Approval of 11 August 1993, which obliged the landowner to **first** construct the Geelhoutboom Dam prior to utilising the property in terms of the zoning. The Geelhoutboom Dam constitutes the natural source of the Resort and had to be constructed before our Client's predecessor in title could proceed with the implementation of the full extent of its resort rights. Our Client records that the total construction costs of the Geelhoutboom Dam at the time of its construction already exceeded R12 000 000,00.
- [86] The instance of vested rights and the socio-economic impact in respect thereof, have not been subjected to the public participation process, nor did such significant impact form part of the Impact Assessment undertaken.
- [87] Our Client submits that the significant adverse impact on its Constitutional Property Rights, should have informed the identification and consideration of alternatives in material respects. This was not done in this matter. The manner in which the proposed activities might affect our Client's property rights, has not been identified or considered or taken into consideration when the impact of the proposed activity was assessed.
- [88] Our Client submits that the desirability of the proposed activity will also be significantly affected in view of the infringement on its Constitutional Property Rights and that all identified impact must be assessed against the current vested rights of our Client.
- [89] As remarked above, Eskom is a state-owned utility and the first principle should be that the state uses its own properties over which these linear activities can be undertaken. Our Client alerts the competent authority to the fact that the property to the North and adjacent to our Client's property, is owned by the state and the preferred alternative for the state and Eskom, should be to construct the proposed power lines as well as the incidental infrastructure, over the state owned land and not over

private property, at an enormous cost to the public. This is a very relevant factor which has not been properly considered by neither the EAP nor Eskom, nor was it dealt with in the Environmental Reports of Eskom.

CONCLUSION

[90] For the reasons stated above, our Client submits that the Draft Environmental Reports are fatally flawed and the competent authority, in terms of the EIA Regulations, cannot accept the Draft Environmental Reports in their current form.

Kind regards,

STADLER & SWART

PER: A H SWART

PROVINSIALE ADMINISTRASIE
VAN DIE KAAP DIE GOEIE HOOP



PROVINCIAL ADMINISTRATION
OF THE CAPE OF GOOD HOPE

TAK GEMEENSKAPSDIENSTE
HOOFDIREKTORAAT
GRONDONTWIKKELINGSKOÖRDINERING

COMMUNITY SERVICES BRANCH
CHIEF DIRECTORATE
LAND DEVELOPMENT CO-ORDINATION

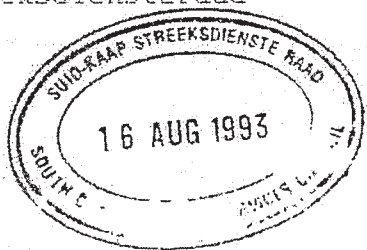
PROVINSIALE GEBOU, WAALSTRAAT,
PRIVAATSAK X9083, KAAPSTAD, 8000

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Die Hoof-Uitvoerende Beampte
Suid-Kaap Streeksdiensteraad
Postbus 12
GEORGE
6530



TELEFOON
TELEPHONE (021) 483-4585

NAVRAE
ENQUIRIES Mnr L Cloete

VERWYSING
REFERENCE AFR6/19/4/2-B4

DATUM
DATE

11 AUG 1993

Meneer

HERSONERING VAN GEDEELTES VAN GEDEELTES 1 EN 3 VAN DIE PLAAS 318,
GEORGE

1. Met verwysing na u brief 14/7/2/799 gedateer 15 September 1992 moet ek u meedeel dat die Administrateur, met ingang vanaf datum van hierdie brief, kragtens artikel 16 van Ordonnansie 15 van 1985, saamgelees met artikel 42(1) van die Ordonnansie, goedkeuring verleen het vir die hersonering van gedeeltes van Gedeeltes 1 en 3 van die Plaas 318, George vanaf Landbousonne I na Oordsonne II ten einde die eienaar in staat te stel om 50 eenhede vir vakansie-doeleindes op te rig soos aangetoon op uitlegplan no. G/G/262/2, onderworpe aan die volgende voorwaardes:
 - 1.1 Dat die eienaar 'n toegangspad tot die bevrediging van die Suid-Kaap Streeksdiensteraad voorsien. ✓
 - 1.2 Dat die aangehegte voorwaardes van die Suid-Kaap Streeksdiensteraad nagekom word.
 - 1.3 Dat die toegang na Gedeelte 31 van die plaas Geelhoutboom no. 217 soos tans in gebruik, behou word en geensins benadeel word nie. ✓
 - 1.4 Dat die 50 eenhede slegs opgerig mag word nadat die dam gebou is, alhoewel daar met die voorbereiding van die boupersele van die chalets en die infrastruktuur 'n aanvang gemaak mag word gelyktydig met die bou van die dam; met dien verstande dat twee eenhede dadelik opgerig mag word na goedkeuring van die projek. ✓

Die uwe

ADJUNK-DIREKTEUR-GENERAAL: GEMEENSKAPSDIENSTE

ANNEXURE 4

KOPIEREG:
 This drawing is the copyright of DELplan Consulting. Do not scale from it but refer to figured dimensions. All measurements must be checked and confirmed by a Professional Land Surveyor. Any discrepancies should please be reported to DELPlan immediately.

Die kopiereg van hierdie tekening behoort aan DELplan Consulting. Moenie daarvan afskaal nie, maar verwys na afstande soos aangedui. Alle afmetings moet deur 'n Professionele Landmeter nagegaan en bevestig word. Enige teensterings moet onmiddellik geseel word aan DELplan rapporteer word.

PROJECT:
 Geelhoutboom Estate (Pty) Ltd

DESCRIPTION:
 BESKRYWING:
 Farms 318/1, 3, 4, 5, 6, 8, 9, 10 & Remainder Farms 318/2 & 7, George

TITLE:
 Aerial Locality Plan

NOTES:

A3 Scale: 1:15 000



Tel: 044 873 4566 ■ Email: planning@delplan.co.za
www.delplan.co.za



DESIGNED: Surveyor General
ONTWERP:

DRAWN: MV
GE TEKEN: MV

DATE: OCTOBER 2016

PLAN NO: ANNEXURE 4
PLAN NR:



Sheila Bolingo

From: Sheila Bolingo <sheila@envirolution.co.za>
Sent: Wednesday, February 22, 2017 2:29 PM
To: 'Andre Swart'
Subject: RE: DRAFT SCOPING REPORTS: PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE / PROPOSED BLANCO TO DROERIVIER 400KV TRANSMISSION LINE AND SUBSTATION UPGRADE IN THE WESTERN CAPE AND THE EASTERN CAPE PROVINCES

Attachments: Response to Mr Andre Swart of STADLER & SWART Attorney.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr Swart

Your letter dated 10 February regarding the above project has reference. Thank you for your comments on these proposed applications. Please find herewith attached responses to your comments.

Should you have any queries or would like to discuss anything further, please do not hesitate to contact me.

Best Regards,

Sheila Bolingo
Environmental Consultant

Tel: 0861 44 44 99
Fax: 0861 62 62 22
sheila@envirolution.co.za
www.envirolution.co.za

Vista Place Suite 1a & 2
No 52 Cnr Vorster Avenue & Glen Avenue
Glenanda



From: Andre Swart [<mailto:Andre@stadlers.co.za>]
Sent: Monday, February 13, 2017 9:33 AM
To: 'Sheila Bolingo'; 'info@envirolution.co.za'
Subject: RE: DRAFT SCOPING REPORTS: PROPOSED GOURIKWA TO BLANCO 400KV TRANSMISSION LINE / PROPOSED BLANCO TO DROERIVIER 400KV TRANSMISSION LINE AND SUBSTATION UPGRADE IN THE WESTERN CAPE AND THE EASTERN CAPE PROVINCES
Importance: High

Dear Sheila,

Attached hereto find the correct version of our Client's consolidated comments on the abovementioned draft reports. Will you please disregard the comments sent to you on Friday.

Kind regards,

ANDRE SWART
Attorney, Notary and Conveyancer

1 Doneraile Street, George
PO Box 46, George, 6530
Tel: 044 874 4090
Fax: 044 874 0026
Cell: 082 452 3353





STADLER & SWART ATTORNEY COMMENTS AND RESPONSE
DRAFT SCOPING REPORT FOR THE PROPOSED GOURIKWA TO BLANCO and BLANCO TO DROERIVIER 400KV TRANSMISSION LINE AND SUBSTATION UPGRADE

| <i>ISSUE/CONCERN/QUESTION</i> | <i>RESPONSE</i> |
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| <p>1 We act on behalf of Geelhoutboom Estate (Pty) Ltd (Registration Number 2004/009498/07) (the 'Client').</p> <p>2 Eskom proposes the establishment of a Gourikwa to Blanco 400Kv transmission line and substation upgrade as well as a Blanco (Narina) to Droërivier 400Kv transmission line and substation upgrade.</p> <p>3 Envirolution Consulting (Pty) Ltd (the EAP) has been appointed by Eskom Holdings SOC Ltd (Eskom) to undertake an environmental application process for the proposed projects.</p> <p>4 As a registered Interested and Affected Party, our Client was furnished with a copy of the draft Scoping Reports (the 'Draft Environmental Reports') prepared by the EAP, which reports are dated January 2017.</p> <p>5 This letter constitutes our Client's comments on the Draft Environmental Reports as envisaged in terms of Regulation 43(1) of the Environmental Impact Assessment Regulations published in Government Notice No R982 of 4 December 2014 (the EIA Regulations)1.</p> | <p>Thank you for these comments (point 1-5), they are noted.</p> |

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| <p>6 Due to the fact that both Draft Environmental Reports contain the same material flaws and lack of information, our Client will combine its comments to both reports in this consolidated letter.</p> | <p>Comment noted</p> |
| <p>7 The purpose of these comments is to demonstrate that the Draft Environmental Reports in material respects do not comply with the mandatory requirements of the National Environmental Management Act No 107 of 1998 (the NEMA) and the EIA Regulations.</p> | <p>Comment noted</p> |
| <p>8 The environment application of Eskom is subject to scoping and environmental impact reporting as envisaged in Part 3 of Chapter 4 of the EIA Regulations.</p> <p>9 Our Client submits that the instances of non-compliance with the EIA Regulations are to such extent material and fatal to the environmental applications of Eskom that the competent authority will be constrained to act in terms of Regulation 22(b)(ii) should Eskom not comply with Appendix 2</p> <p>10 We have advised our Client that it will in the circumstances not be open to Eskom to redress the flaws of the Draft Environmental Reports in the next phase of the environmental application process namely the Environmental Impact Assessment phase. Any such attempt will constitute a collapsing of the distinct phases of the Environmental Application Process which will be unlawful.</p> | <p>Comments 8-10 are noted.</p> |
| <p>11 In these comments we will focus only on the material instances of non-compliance as our Client is as a result thereof, not in a position to comprehensively comment on all relevant issues. Our Client reserves the right to deal with other issues of concern at an appropriate stage and once the Draft Environmental Reports have been duly revised.</p> | <p>Comment noted</p> |

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| <p>12 Below we will deal with:</p> <p>12.1 The context of the Eskom Environmental Applications and the fragmentation thereof;</p> <p>12.2 Legislative Scheme:</p> <p>12.2.1 Planning Legislation;</p> <p>12.2.2 NEMA;</p> <p>12.2.3 EIA Regulations.</p> <p>12.3 Non-compliance with the NEMA:</p> <p>12.3.1 Lack of Information;</p> <p>12.3.2 Alternatives;</p> <p>12.3.3 Need and Desirability.</p> <p>12.4 Vested Rights</p> | <p>Comment noted</p> |
| <p>13 Our Client submits that the environmental applications which form the subject matters of the Draft Environmental Reports cannot be considered separate and distinct from each other and the environmental application of Eskom for the proposed Narina (Blanco) 400/132Kv MTS Substation and Droërivier Proteus Loop-In Loop-Out Powerline Project within the Blanco Area. The three relevant environmental applications form a core component of the larger Eskom grid in the Western Cape. Our Client submits that the fragmented manner in which the three environmental applications are processed constitutes a total collapse of the Environmental Application Processes, which makes it almost impossible for Interested and Affected Parties to understand and comment on the applications. Our Client submits that all three of Eskom's environmental applications should be consolidated and processed in an integrated manner.</p> | <p>These are totally three different projects with different time line and different internal demand from Eskom side, these projects satisfy different need, the Narina (Blanco) 400/132Kv MTS Substation and Droërivier Proteus Loop-In Loop-Out Powerline Project is for supply load to customer (distribution) whilst the Blanco-Droerivier/Gourikwa-Blanco fall under integration of generation which is for a different purpose altogether.</p> |

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| <p>14 In various parts of the Draft Environmental Reports, the EAP represents that the environmental authorisation for the proposed Narina (Blanco) 400/132Kv MTS Substation and Droërivier Proteus Loop-In Loop-Out Powerline Project within the Blanco Area has been granted by the competent authority on 1 September 2016, but that the substation has not yet been constructed. Differently put, the Draft Environmental Reports suggest to Interested and Affected Parties that the approval of the Narina (Blanco) MTS Substation is a fact. This position is legally incorrect and misleading. On 21 October 2016, our Client submitted a comprehensive appeal against the Narina approval, which has the effect that such approval is suspended and may be set aside on appeal by the MEC. In view of the grounds of appeal against the Narina approval, any purported approval by the MEC on appeal will be challenged by our Client in judicial review proceedings.</p> | <p>It is a fact that authorisation for the proposed Narina (Blanco) 400/132Kv MTS Substation and Droërivier Proteus Loop-In Loop-Out Powerline Project within the Blanco is granted (this is not incorrect and misleading); however it is acknowledged that appeal is pending on that application.</p> |
| <p>15 The setting aside of the Narina approval or even the variation thereof, may have a material impact on the current environmental applications. Hence the reason why our Client submits that the three environmental applications should at least be processed simultaneously and an integrated decision making process be followed.</p> | <p>These are totally three different projects with different time line and different internal demand from Eskom side, these projects satisfy different need, the Narina (Blanco) 400/132Kv MTS Substation and Droërivier Proteus Loop-In Loop-Out Powerline Project is for supply load to customer (distribution) whilst the Blanco-Droerivier/Gourikwa-Blanco fall under integration of generation which is for a different purpose altogether.</p> |

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| <p>16 Eskom's environmental applications are complex and difficult to understand from a technical perspective. The EAP has totally neglected and refused to give any details to Interested and Affected Parties regarding the strategic planning context of the applications and to do so in terms which will be understandable to the average reader.</p> | <p>Comments are noted. The clarification regarding strategic projects in the region is discussed in Chapter 2 under section 2.2 and 2.3 of the Scoping Report (SR). In summary: The development of the transmission backbone and the associated regional power corridors were reviewed as part of the Strategic Grid Study which considered the potential development scenarios beyond the 10-year horizon of the Transmission Development Plan (TDP) until 2030. The objective of this strategic study was to align the transmission network with the requirements of the generation future options and those of the growing and future load centres. This Strategic Grid Study has enabled the 10-year TDP to be aligned with the future long-term development of the whole Eskom system.</p> <p>A Customer Load Network (CLN) is a network within a specific geographical area, which in turn is a subdivision of a Grid. The West Grid consists of four Customer Load Networks, namely Peninsula, Southern Cape, West Coast and Namaqualand. The proposed 400kV Transmission power line from the Blanco Substation to the Droërivier Substation forms part of Eskom's West Grid and the Southern Cape CLN.</p> |
| <p>17 As will be explained in the paragraphs that follow, the EIA Regulations prescribe that the contents of a Scoping Report must include a description of the policy and legislative context.</p> | <p>Comment noted</p> |
| <p>18 We will deal in more detail with the legislative scheme in the paragraphs that follow.</p> | |
| <p>Planning Legislation (19-40)</p> <p>19 In terms of Item 2(e) of Appendix 2, it is a mandatory requirement that the Draft Environmental Reports must contain a description of the policy and legislative context as well as an identification of all legislation and guidelines. Our Client submits that a mere identification of applicable legislation is not sufficient, but the actual policy and legislative context must be properly described. The Draft Environmental Reports do not at all comply with this requirement.</p> | <p>Chapter 3 of the Scoping Reports gives a clear description of the policy and legislative context applicable to these projects.</p> |
| <p>20 Our Client submits that the Draft Environmental Reports must also deal with the legislation providing for spatial planning and land use.</p> | <p>This comment is noted, the Spatial planning and land use legislation is explained in Chapter 3 of the Scoping Reports. However these explanations can be further elaborated in the EIA phase of this application as to give more contexts into them.</p> |

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| <p>21 Eskom’s applications in this matter are essentially applications for the erection of buildings and structures on land and constitute ‘land development’ as defined in the Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA). The term ‘land development’ is defined in SPLUMA as follows:</p> <p><i>“land development” means the erection of buildings or structures on land, or the change of use of land, including township establishment, the subdivision or consolidation of land or any deviation from the land use or uses permitted in terms of an applicable land use scheme’</i></p> <p>22 Section 33(1) provides as follows:</p> <p><i>‘33(1) Except as provided in this Act, all land development applications must be submitted to a municipality as the authority of first instance.’</i></p> | <p>Comment noted</p> |
| <p>23 From the Draft Environmental Reports it appears that the environmental applications were not submitted to the different local and district municipalities with jurisdiction.</p> | <p>All affected local and district municipalities with jurisdiction have been involved in these applications. The different engagement with the different municipalities is outlined in the PPP document (Appendix 4.1) of the Scoping Report.</p> |
| <p>24 The reason why it is of specific importance that the description of the legislative context in the Draft Environmental Reports should in some detail deal with the applicable planning legislation is because Eskom will require planning approvals from the municipalities, in terms of the applicable Municipal Planning By-Laws read with the applicable Zoning Scheme Regulations. Our Client submits that at least the land comprising the infrastructure including the footprints of the substations and pylons will have to be rezoned to an appropriate zoning which provides for electricity infrastructure.</p> | <p>This is a power line project; the line crossing over the land will not require rezoning of that land. The EIA only gives Eskom a right of servitude, due processes are followed if and when EA is issued, ie the other applicable requirements will be attended at a later stage post EIA phase.</p> |
| <p>25 Section 26(1) of SPLUMA provides as follows:</p> <p><i>‘26(1) An adopted and approved land use scheme—</i> <i>(a) has the force of law, and all land owners and users of land, including a municipality, a state owned enterprise and organs of state within the municipal area are bound by the provisions of such a land use scheme.’</i></p> | <p>Comment noted</p> |

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| <p>26 Almost all properties impacted upon by the Eskom applications are zoned for agricultural purposes and our Client submits that the applicable zoning schemes do not allow infrastructure, such as the kind that Eskom proposes to erect, without the required planning approvals. It is inter alia for this reason that applications of this kind must be submitted with the different municipalities with jurisdiction.</p> | <p>This is a power line project; the line crossing over the land will not require rezoning of that land. The EIA only gives Eskom a right of servitude, due processes are followed if and when EA is issued, ie the other applicable requirements will be attended at a later stage post EIA phase.</p> |
| <p>27 In terms of Section 55(1) of the SPLUMA, only the Provincial Government or a municipality may apply to the Minister of Rural Development and Land Reform for exemption from the provisions of SPLUMA if it is in the public interest to do so. All Provincial Governments and municipalities with jurisdiction will have to apply for such exemptions. Eskom does not have any power to make such applications.</p> <p>28 In addition to the planning approvals required for the Eskom infrastructure, Eskom will also require an approval from the Head of the Department of Environmental Affairs and Development Planning, as envisaged in terms of Section 53(1) of the Land Use Planning Act 3 of 2014 (LUPA) or an exemption from the Provincial Minister. Section 53(5) provides as follows: <i>'53(5) An approval by the Head of Department of a land development application does not release an applicant from the obligation to obtain the required approval from the municipality for the land development.'</i></p> | <p>Comment noted</p> |
| <p>29 Eskom and the EAP have furthermore neglected to refer the environmental applications to the Minister of Rural Development and Land Reform as required in Section 52 of SPLUMA.</p> | <p>Department of Agriculture, Rural Development and Land Reform is an I&APs in the database and has been informed of the project (refer to database I Appendix 4.1)</p> |

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| <p>30 Section 52(1) of SPLUMA provides as follows: <i>'52(1) Subject to the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), a land development application must be referred to the Minister where such an application materially impacts on—</i> <i>(a) matters within the exclusive functional area of the national sphere in terms of the Constitution;</i> <i>(b) strategic national policy objectives, principles or priorities, including food security, international relations and cooperation, defence and economic unity; or</i> <i>(c) land use for a purpose which falls within the functional area of the national sphere of government.'</i></p> | <p>Comment noted</p> |
| <p>31 It is important to note that electricity generation, transmission and distribution falls within the exclusive national competency of Government. 32 Our Client submits that it is incumbent on Eskom and the EAP to explain the abovementioned legislative context, as prescribed in Item 2(e) of Appendix 2. Planning applications, ie rezoning, consent and departure applications can only be submitted by landowners. This needs to be properly explained in the Draft Environmental Reports.</p> | <p>Application for rezoning for this project is not required, however all other legislative requirements will be dealt with post EIA. This does not part of the EIA process.</p> |
| <p>33 Furthermore, our Client submits that in all likelihood the title deeds of a large number of the involved properties and farms will contain title conditions which restrict the land use to that of Agriculture. Planning approvals cannot be granted in conflict of prevailing title conditions. Our Client therefore submits that Eskom will have to peruse all title deeds to ensure that the proposed land use is not in contravention thereof and will have to explain in some detail in the Draft Environmental Reports what the statutory requirements are for the removal of such restrictive title conditions.</p> | <p>These proposed line will not change the agricultural nature of the area, it's not the intention of these applications to change the zoning of the land. If needs be, proper protocols will be followed post EIA.</p> |
| <p>34 Eskom will not be able to circumvent the aforementioned statutory requirements by means of expropriations.</p> | <p>Same as point 33 above</p> |

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| <p>35 The significant impacts on the study area of the environmental applications include impacts on agriculture, tourism, heritage resources and visual impacts. Our Client submits that the Spatial Development Frameworks (SDFs) which find application in respect of the study areas of the environmental applications, designate almost all land concerned for agricultural purposes and not for the kind of electricity infrastructure that Eskom now proposes to construct on the affected farms. The proposed Eskom infrastructure and use thereof is clearly in conflict with the designation of such properties for agricultural purposes, in terms of the application SDFs. This conflict is described in some detail in both Draft Environmental Reports.</p> | <p>Same as point 33</p> |
| <p>36 Our Client also submits that the applicable SDF's specifically provide that valuable agricultural land should be protected, tourism promoted and that the heritage and visual landscapes be protected. The Eskom applications are in stark contrast with the aforementioned guidelines in the applicable SDFs.</p> | <p>Specialist reports will take appropriate mitigations and the relevant authorities will be corresponded. The EIA process will ensure that these potential impacts are assessed and mitigated</p> |
| <p>37 As remarked above, Eskom's proposed infrastructure development constitutes 'land development' as envisaged in terms of the SPLUMA. Section 22(1) of SPLUMA provides as follows: <i>'22(1) A Municipal Planning Tribunal or any other authority required or mandated to make a land development decision in terms of this Act or any other law relating to land development, may not make a decision which is inconsistent with a municipal spatial development framework.'</i></p> | <p>Comment noted</p> |
| <p>38 Any planning application (i.e. rezoning, consent use or departure application) will have to be consistent with the applicable SDFs of the municipalities with jurisdiction.</p> | <p>These proposed line will not change the agricultural nature of the area, it's not the intention of these applications to change the zoning of the land. If needs be, proper protocols will be followed post EIA.</p> |
| <p>40 It is clear that the proposed utilisation of the land concerned deviates from the applicable SDFs, which will necessitate an amendment of the SDFs before the municipality with jurisdiction will be entitled to approve any planning application of Eskom.</p> | <p>These proposed line will not change the agricultural nature of the area, it's not the intention of these applications to change the zoning of the land. If needs be, proper protocols will be followed post EIA.</p> |

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| <p>NEMA - Section (Point 41-48)</p> <p>41 For ease of reference and for the benefit of providing appropriate emphasis, we will repeat the applicable provisions contained in the NEMA, as well as the EIA Regulations and will make appropriate cross-references thereto in these comments.</p> <p>42 An Environmental Impact Assessment (EIA) is an Environmental Management Tool to ensure the integrated environmental management of activities which may have a significant negative impact on the environment.</p> <p>43 Section 23 specifically deals with the purpose and general objective of integrated environmental management and constitutes the statutory framework within which all EIA's must be undertaken.</p> <p>44 Section 23(1), (2)(b) and (c) provides as follows: <i>'23(1) The purpose of this Chapter is to promote the application of appropriate environmental management tools in order to ensure the integrated environmental management of activities.'</i></p> <p>45 The mandatory minimum procedural requirements for an EIA of the kind in this matter, are contained in Section 24(4)(b)(i) which inter alia provides as follows: <i>'24(4) Procedures for the investigation, assessment and communication of the potential consequences or impacts of activities on the environment -</i></p> | <p>Comments 41-45 are noted</p> |
| <p>46 The Appellant submits that the following principles of environmental management, as set out in Section 2, is of specific application in this matter: <i>'2(3) Development must be socially, environmentally and economically sustainable. (4)(b) Environmental management must be integrated, acknowledging that all elements of the environment are linked and interrelated, and it must take into account the effects of decisions on all aspects of the environment and all people in the environment by pursuing the selection of the best practicable environmental option.'</i></p> | <p>Comment is noted and acknowledged, route alignment alternatives will be investigated in the EIA phase</p> |

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| <p>47 In terms of Section 1, the phrase “best practical environmental option” is defined as follows: “the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term”</p> | <p>For Blanco-Droerivier power line: Two alternatives have been proposed and are being assessed, at this stage Alternative 1 is preferred due to the shorter distance which would mean that it would result in a smaller footprint. The Scoping level assessment has however indicated that this route may impact negatively on intensive farming activities and sensitive vegetation, in particular the Swartberg Area and fynbos. Loss of vegetation along the Alternative 2 route could however also result in a loss of farming land and income. The latter situation needs to be evaluated in specialist agricultural and ecological studies. Both alternatives will be further assessed and refined in the EIA phase.</p> <p>For Gourikwa-Blanco power line: Three alternatives have been proposed and are being assessed, at this stage The negative impacts that are identified in are to be earmarked for further in depth studies during the EIA Phase. Alternative 1 is preferred due to the location further from the sensitive Fynbos areas, from large wetlands and further north of the holiday homes that are located around Klein Brak and Hartenbos. The Scoping level assessment has indicated that this route may impact negatively on certain sensitive vegetation, game farms and intensive farming activities. The Scoping level assessment has however indicated that this route may impact negatively on Game Ranches and on intensive farming activities. During the Public Participation Process, concerns related to bird collisions were prominent, in particular where water bodies are present on the ground. At this stage a combination of Alternative 3 is preferred, but Alternative 4 should be investigated during the EIA phase, due to the possible better avoidance and minimisation of impacts carrying more weight than management and mitigation.</p> |
| <p>48 The EIA Regulations need to be interpreted and complied with within the framework of the aforementioned provisions of NEMA.</p> | <p>An EIA process, as defined in the NEMA EIA Regulations, is a systematic process of identifying, assessing, and reporting environmental impacts associated with an activity. The EAP can confirm that NEMA principles are covered in these EIA applications.</p> |
| <p><i>EIA Regulations (Point 49-53)</i></p> <p>49 The regulatory framework which applies to the environmental applications of Eskom is that prescribed in the EIA Regulations. The environmental applications of Eskom are applications which are subject to Scoping and Environmental Impact Report (S&EIR).</p> | <p>Comment noted</p> |

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| <p>50 In its previous comments on the Narina Application, our Client repeatedly complained that the EAP and Eskom failed to comply with various mandatory provisions of the Regulations as far as the contents of the Draft Environmental Reports are concerned. Neither the EAP nor Eskom has responded to such complaints.</p> | <p>That project (Narina-Blanco Application) has no bearing on this project, however Eskom has informed the EAP that all comments were responded to in the Comments and Response Report (Refer to Appendix 5.7 and 5.11 of the FEIR).</p> |
| <p>51 Regulation 21(3) and Item 2(e), (f) and (h) of Appendix 2 state as follows: '21(3) A scoping report must contain all information set out in Appendix 2 to these Regulations.'</p> | <p>Noted. The Scoping Report included all information required in terms of the Regulations. The DEA has previously received the documents referred to above, and accepted these based on the fact that they adhered to the requirements.</p> |
| <p>52 It is to be noted that the prescribed contents of scoping reports are mandatory and leave no discretion to the EAP or Eskom.</p> | <p>The EAP is aware of this requirement, accordingly this scoping report is aligned to the Environmental Impact Assessment Regulations, 2014 (Appendix 2).</p> |
| <p>53 As far as non-compliance with Item 2(e) is concerned (legislative context), we refer to what we have stated in Paragraph 19 above.</p> | <p>As per the previous response on this matter, Chapter 3 of the Scoping Reports gives a clear description of the policy and legislative context applicable to these projects. The reports have been drafted to comply with the EIA regulation; it must note that these scoping reports have been previously accepted by the competent authority (DEA) for this application. This Department is responsible for environmental policy and is the controlling authority in terms of NEMA and the EIA Regulations.</p> |
| <p>Lack of Information (point 54-60)</p> <p>54 As far as the disclosure of information is concerned, the EIA Regulations impose certain mandatory duties on the EAP. Reference is made to Regulation 13(1)(f), which states as follows: '13(1) An EAP and a specialist, appointed in terms of regulation 12 (1) or 12 (2)....'</p> | <p>Noted. The Scoping Report included all information required in terms of the Regulations. The DEA has previously received the documents referred to above, and accepted these based on the fact that they adhered to the requirements.</p> |

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| <p>55 From the environmental applications it appears that the Eskom Transmission Grid Planning Unit initiated a study to investigate possible solutions to address transformation and network constraints. It appears that this study served as the basis of the alternatives proposed by Eskom. Our Client submits that details of the aforementioned study must be disclosed to the competent authority and Interested and Affected Parties, including the possible solutions identified in the study. Eskom is obliged to disclose the strengthening options which were considered, including details of the various upgrades of infrastructure.</p> | <p>Eskom have indicated that the Eskom Planning Reports cannot be made available in the public domain. The best techno-economical option was chosen. However, the key information regarding the points raised is provided in Chapter 2 of the Scoping Report. The Transmission Development Plan can be downloaded directly from the following Eskom website http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf</p> <p>However, extracts of the planning documents have been provided in the report. Again these documents are confidential as confirmed by Eskom.</p> |
| <p>56 Our Client submits that the Eskom Transmission Grid Study constitutes material information which informed the alternatives identified in the Eskom environmental applications. In terms of Regulation 13(1), the EAP must disclose the contents of the Eskom Transmission Grid Study to Interested and Affected Parties. If the EAP is not in possession of the aforementioned study, it will follow that the EAP, in preparing the Draft Environmental Reports, merely acted on the dictates of Eskom.</p> | <p>Eskom have indicated that the Eskom Planning Reports cannot be made available in the public domain. The best techno-economical option was chosen. However, the key information regarding the points raised is provided in Chapter 2 of the Scoping Report. The Transmission Development Plan can be downloaded directly from the following Eskom website http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf</p> <p>However, extracts of the planning documents have been provided in the report. Again these documents are confidential as confirmed by Eskom.</p> |

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| <p>57 Further examples, for illustrative purposes, of the absence of material information are the following extracts from the Gourikwa to Blanco Scoping Report:</p> <p><i>'2.2 ... Various combinations of 400 kV and 765 kV Transmission lines were assessed for the loading scenarios at Gourikwa. Results showed that loading will result in islanding of the Gourikwa power station in one scenario, and the islanding of the power station together with the Blanco and Proteus Transmission Substations in the second scenario. This means that if the project does not go ahead, then increased power generation at Gourikwa will overload the grid and cut off power supply from the power station. Therefore, in order to ensure that Gourikwa is Grid Code compliant, a third line needs to be built out of the facility. Three options for the proposed third line were considered. When all three options were technically evaluated, the line into Droërvier Substation via Blanco Substation was preferred based on the natural path for the power to flow. This can be attributed to the future generation in the Cape Peninsula and surrounding area. This option is also in alignment with the proposed second Droërvier – Proteus 400 kV line as per the Technical Development Plan. For the Gourikwa-Blanco option, a 400 kV Transmission line from Gourikwa to Blanco (which is the next closest load centre) will have to be established.'</i></p> | <p>Eskom have indicated that the Eskom Planning Reports cannot be made available in the public domain. The best techno-economical option was chosen. However, the key information regarding the points raised is provided in Chapter 2 of the Scoping Report. The Transmission Development Plan can be downloaded directly from the following Eskom website http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf</p> <p>However, extracts of the planning documents have been provided in the report. Again these documents are confidential as confirmed by Eskom.</p> |
| <p>58 In terms of Item 2(h)(i) of Appendix 2, the Draft Environmental Reports must give a full description of the process followed to reach the proposed preferred activity. Details of all alternatives considered must be disclosed. We will deal in more detail with non-compliance as far as alternatives are concerned below. Eskom and the EAP will have to provide the competent authority and Interested and Affected Parties with details and proof of the investigations undertaken with full disclosure of the content thereof and a proper motivation why no other potential alternatives exist. All strategic documents and information must be made available to Interested and Affected Parties.</p> | <p>Eskom have indicated that the Eskom Planning Reports cannot be made available in the public domain. The best techno-economical option was chosen. However, the key information regarding the points raised is provided in Chapter 2 of the Scoping Report. The Transmission Development Plan can be downloaded directly from the following Eskom website http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf</p> <p>However, extracts of the planning documents have been provided in the report. Again these documents are confidential as confirmed by Eskom.</p> |
| <p>59 The manner in which Eskom has processed its environmental applications to date totally undermines the Public Participation Process.</p> | <p>Details of the public participation process undertaken in terms of regulation 41 of the EIA Regulations are included in Appendix 4.1 of the Scoping Reports</p> |
| <p>60 Regulation 14(5)(a) and (b) inter alia deals with the instance where an EAP refuses or neglects to disclose material information.</p> | <p>The EAP has disclosed all information at hand applicable to this project, and in no instance has the EAP refused to furnish I&APs additional requested information.</p> |

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| <p>Alternatives (Point 61-67)</p> <p>61 Reference is made to Item 2(h)(i) of Appendix 2. In addition to what we have stated above regarding the absence of material information in respect of alternatives, our Client submits that the Draft Environmental Reports lack a full description of the process followed to reach the proposed preferred activity and the details of all alternatives considered.</p> | <p>Chapter 2 of the Scoping Reports gives sufficient background description of the alternatives considered for the EIA applications. These alternatives will be further assessed in the EIA phase.</p> |
| <p>62 Our Client submits that it was incumbent upon Eskom to identify all potential alternatives and then to assess those alternatives which are considered to be reasonable and feasible. The EIA Guideline and Information Document Series (Guideline on Alternatives) of the Western Cape Department of Environmental Affairs and Development Planning contains the following guideline as far as the identification and investigation of alternatives are concerned: <i>'Detailed information on the consideration of alternatives must, however, be provided in the relevant reports. In this regard (a) the methodology, (b) criteria used to identify, investigate and assess alternatives (these must be consistently applied to all alternatives), and (c) a reasoned explanation why an alternative was or was not found to be reasonable and feasible must be provided.'</i></p> | <p>Chapter 2 of the Scoping Reports gives sufficient background description of the alternatives considered for the EIA applications. These alternatives will be further assessed in the EIA phase in consultation with the various stakeholders as well as specialist studies</p> |
| <p>63 following guidelines as far as alternatives are concerned are contained in Guideline 5: Assessment of Alternatives and Impacts of the Department of Environmental Affairs: <i>'I&As must be provided with an opportunity of providing inputs into the process of formulating alternatives. Once a full range of potential alternatives has been identified, the alternatives that could be reasonable and feasible should be formulated as activity alternatives for further consideration during the basic assessment or scoping and EIA process. The number of alternatives that are selected for assessment should not be set arbitrarily, but should be determined by the range of potential alternatives that could be reasonable and feasible and should include alternatives that are real alternatives to the proposed activity.'</i></p> | <p>Comment noted</p> |

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| <p>64 The fact that the Gourikwa or Droërivier substations may already exist, is no reason why Eskom is not obliged to identify and assess other alternatives. Furthermore, the mere existence of current infrastructure does not constitute a 'motivation' as envisaged in terms of Item 2(h)(x) of Appendix 2 for not consideration alternatives.</p> | <p>The existing infrastructure needs to be expanded, these projects fall as part of those envisaged expansions.</p> |
| <p>65 Our Client submits that it was incumbent on the EAP and Eskom to disclose detailed information on the consideration of all potential alternatives. Both the EAP and Eskom failed to do so.</p> | <p>Chapter 2 of the Scoping Reports gives sufficient background description of the alternatives considered for the EIA applications. These alternatives will be further assessed in the EIA, the EAP and the appointed independent specialists will assess these alternatives and those that are considered to be viable , feasible and reasonable, will be presented to all registered I&APs during the EIA process.</p> |
| <p>66 The Regulations oblige the EAP and Eskom to provide a reasoned motivation why alternatives identified as potential alternatives were not considered to be reasonable and feasible. This is not a matter which is at all in the discretion of Eskom or EAP.</p> | <p>Alternatives as well as "no go options are proposed and these will be further assessed in the EIA phase.</p> |
| <p>67 Our Client furthermore submits that all identified potential alternatives must be "comparatively considered" and then those alternatives found to be "feasible and reasonable" must be "comparatively assessed". Interested and affected parties must then be afforded an opportunity to provide comments on the aforementioned comparative considerations and assessments.</p> | <p>Alternatives are to be assessed in the EIA phase in line with the regulation</p> |
| <p><i>Need and Desirability (Point 68-74)</i></p> <p>68 In terms of Item 2(f) of Appendix 2, a description of the need and desirability in any environmental reports is also a mandatory requirement.</p> | <p>The scoping reports have complied with Item 2(f) of Appendix 2, as this aspect is dealt with in Chapter 2 of the Scoping Reports</p> |

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| <p>69 The need and desirability of the proposed activity is described in the Draft Environmental Reports exclusively with reference to the Eskom Transmission Grid Planning study. As remarked above, Eskom is obliged to disclose the Eskom study as such study is pivotal to a proper understanding of the need and desirability of the project and also the identification of alternatives. The contents of the Grid Planning Study will afford Interested and Affected Parties an opportunity to know whether all potential alternatives have been identified and to understand the reasoning process why only certain of those potential alternatives were considered to be reasonable and feasible. Our Client submits that this is a fatal flaw to the environmental applications of Eskom.</p> | <p>Eskom have indicated that the Eskom Planning Reports cannot be made available in the public domain. The best techno-economical option was chosen. However, the key information regarding the points raised is provided in Chapter 2 of the Scoping Report. The Transmission Development Plan can be downloaded directly from the following Eskom website http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf</p> <p>However, extracts of the planning documents have been provided in the report. Again these documents are confidential as confirmed by Eskom.</p> |
| <p>70 The concept of need and desirability can be explained in terms of the meaning of its two components in which “need” refers to time and “desirability” refers to place. Put differently, is this the right time and is it the right place for locating the type of activity proposed by Eskom.</p> | <p>Careful consideration is given to the entire portfolio of the Eskom Transmission Projects. If an opportunity arises to defer projects, then Eskom will take this into considerations. In this instance due to the current constraints experienced by Distribution to meet the load and refurbishment requirements, this project is required as a matter of urgency. The location is correctly identified to also address the future developments in the area. Therefore in terms of Eskoms future planning, this is indeed the right time and place for this type of activity.</p> |
| <p>71 Our Client and Interested and Affected Parties simply cannot know or ascertain what the need and desirability of the alternatives are in the absence of the Eskom study. It appears that the Eskom Transmission Grid Planning Study was produced during 2012, in other words before the start of the Environmental Application process.</p> | <p>Eskom have indicated that these reports cannot be made available in the public domain due to confidentiality reasons. However, the key information regarding the points raised is provided in Chapter 2 of the Scoping Report.</p> |
| <p>72 The desirability of the proposed activity turns on the “placing” thereof. The question is whether the proposed activity is the best practicable environmental option for the specific sites. As remarked above, according to the NEMA the “best practicable environmental option” means the option that provides the most benefit and causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term. In determining the best practical environmental option, adequate consideration must also be given to opportunity cost.</p> | <p>Comment noted</p> |

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| <p>73 Our Client submits that the need and desirability of any development proposal must be considered within the appropriate strategic context, namely the SDF of any particular municipality. As argued above, our Client submits that the Eskom development proposal is inconsistent with the SDFs of the relevant municipalities which has the consequence, in terms of Section 22 of LUPA, that the involved municipalities will not be able to grant any planning approval, including any rezoning of any property, unless the relevant SDF has been properly amended to designate the land concerned for purposes of Eskom infrastructure. Our Client therefore submits that in the current circumstances it is not possible for Eskom to properly motivate the need and desirability of the proposed development, especially in the absence of material information not being included in the Draft Environmental Reports.</p> | <p>Table 4 in Chapter 7 of the Scoping reports gives detailed information on the Need And Desirability and desirability of the project. It must be reiterated that application for rezoning for this project is not required, however all other legislative requirements will be dealt with post EIA. This does not part of the EIA process.</p> |
| <p>74 In terms of Item 2(d) of Appendix 2, the Draft Environmental Reports must contain a description of the scope of the proposed activities including ‘associated structures and infrastructure’. The Draft Environmental Reports do not properly describe what associated structures or infrastructure would be required and disclose relevant information. The Draft Environmental Reports do refer to substation upgrades in vague and approximate terms.</p> | <p>Associated structures and infrastructure are described in Chapter 2 of the Scoping Reports under section 2.4 (Description of the proposed activities).</p> |
| <p>75 The vested land use rights of the Client have not been dealt with in the Environmental Application of Eskom, but were totally disregarded. This constitutes a fatal flaw to the Environmental Application of Eskom.</p> | <p>The EIA application is merely a planning tool for potential future developments, only when the project is approved can Eskom consider the vested land use rights of individual landowner through engagement with affected landowners. Once more it must be noted that it’s not the intention of these applications to change the current zoning of the land. If needs be, proper protocols will be followed post EIA.</p> |
| <p>76 The Draft Environmental Reports represent that all properties are zoned for agricultural purposes. This constitutes a misrepresentation as far as our Client’s properties are concerned.</p> | <p>The EIA application is merely a planning tool for potential future developments, only when the project is approved can Eskom consider the vested land use rights of individual landowner through engagement with affected landowners. Once more it must be noted that it’s not the intention of these applications to change the current zoning of the land. If needs be, proper protocols will be followed post EIA.</p> |

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| <p>77 We attach hereto as Annexure A, a rezoning approval of the then Provincial Administration of the Cape of Good Hope, dated 11 August 1993, in which the rezoning of Portions 1 and 3 of the Farm 318, from Agricultural Zone 1 to Resort Zone II, for the development of 50 holiday accommodation units was approved.</p> <p>78 The first units were duly constructed, infrastructure installed and the land use rights locked-in.</p> | <p>The EIA application is merely a planning tool for potential future developments, only when the project is approved can Eskom consider the vested land use rights of individual landowner through engagement with affected landowners. Once more it must be noted that it's not the intention of these applications to change the current zoning of the land. If needs be, proper protocols will be followed post EIA.</p> |
| <p>79 The layout of the approved Resort Zone II units is indicated on Annexure B attached hereto. The competent authority is specifically alerted to the fact that the power line has been proposed almost immediately adjacent to the resort units. The competent authority needs to be mindful of the critical fact that no servitudal rights exist in favour of Eskom over our Client's properties. Our Client records that in view of its vested land use rights, that it will not be amenable to grant any consent to Eskom to register any kind of servitude over its properties. The Client will resist and challenge any attempt by Eskom or the National Government to expropriate any servitude or land owned by the Client.</p> | <p>Eskom servitude will only be registered after the receipt of the EA. Eskom appoints the independent Professional valuer to evaluate the affected property. Then the valuer contacts the rightful landowner and visit the property to compile the valuation report that will determine the compensation to be paid. Eskom representative visits the landowner to negotiate with the landowner for the acquisition of the servitude. Once the landowner signs the Option to acquire the servitude the process of servitude registration commences. Servitude registration takes about six months. The compensation will be paid after the registration</p> |
| <p>80 The Client's property rights and specifically the Resort Zone II Use Rights constitute "property" as envisaged in terms of Section 25 of the Constitution. <i>25(1) No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.</i> <i>(2) Property may be expropriated only in terms of law of general application-</i> <i>(a) for a public purpose or in the public interest; and</i> <i>(b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.</i> <i>(3) The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances-</i></p> | <p>Comment noted</p> |

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| <p>81 The Client will not consent to any servitude which may be required by Eskom over its property. Apart from the instance of actual expropriation, our Client submits that the implementation of the Eskom proposal over its properties will effectively result in a constructive expropriation of the Resort Land Use Rights, which attach to Portion 1 and 3. Such opportunity cost will in the circumstances be totally irrational and at a cost totally unacceptable to society in the long term as well as the short term. The Client therefore submits that the alternatives proposed are not the “best practical environmental option”.</p> | <p>Should the property be affected by the servitude, a professional independent land valuer will be appointed to conduct the Strip and Specific Valuation reports. The landowner will meet the Eskom negotiator to discuss the valuation report, and the specific valuation will indicate the difference between the values of the property before the powerline is constructed, and after construction has occurred. The ‘willing-to-sell, willing-to-buy’ rule will also apply, which means that Eskom is willing to buy the property at the market value based on the valuation report done by the independent valuer.</p> |
| <p>82 Our Client submits that the alignment of the power lines will make the sustainable development of the resort units impossible. Eskom is a state owned utility which must comply with the Occupational Health and Safety Act 85 of 1993, as well as the applicable management systems in accordance with ISO 9001, ISO14001 and the OHSAS 1800 requirements. Our Client submits that Eskom will not be able to implement any of the alternatives consistent with the aforementioned legislation and systems</p> | <p>ESKOM will have to comply with all relevant rules and regulations. During the detailed design phase of the project, the exact positioning and placement of the substation and associated pylons will be finalized in conjunction with any affected landowners. It should also be noted that due to the fact that the proposed powerline is a short distance, fewer pylons will be required (to be confirmed during detailed design).</p> |
| <p>83 In view of the fact that the alternatives will be implemented substantially in a residential resort, it will have far reaching occupational health and safety consequences as far as adverse impacts of electrical and magnetic fields are concerned, as well as the general safety of humans living in the resort.</p> | <p>A detailed Construction and Operational Management Plan (COEMP) has been compiled as part of the process, which will now be updated to include all the specific conditions, as well as detail design aspects as soon as they are available. This will be strictly implemented on the site during construction and operation. This COEMP was submitted as part of the EIA process, and has been accepted by the DEA.</p> |
| <p>84 Should Eskom’s environmental application be approved, our Client will be entitled to constitutional compensation as envisaged in terms of Section 25(3) of the Constitution. The competent authority is specifically alerted to the fact that the current Land Use Rights of the properties, as well as the market value thereof, constitutes relevant factors which will determine the compensation to which the appellant will be entitled to in terms of Section 25(3) of the Constitution.</p> | <p>Should the property be affected by the servitude, a professional independent land valuer will be appointed to conduct the Strip and Specific Valuation reports. The landowner will meet the Eskom negotiator to discuss the valuation report, and the specific valuation will indicate the difference between the values of the property before the powerline is constructed, and after construction has occurred. The ‘willing-to-sell, willing-to-buy’ rule will also apply, which means that Eskom is willing to buy the property at the market value based on the valuation report done by the independent valuer.</p> |

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| <p>85 As far as Constitutional compensation is concerned, reference is made to condition 1.4 of the Rezoning Approval of 11 August 1993, which obliged the landowner to first construct the Geelhoutboom Dam prior to utilising the property in terms of the zoning. The Geelhoutboom Dam constitutes the natural source of the Resort and had to be constructed before our Client's predecessor in title could proceed with the implementation of the full extent of its resort rights. Our Client records that the total construction costs of the Geelhoutboom Dam at the time of its construction already exceeded R12 000 000,00.</p> | <p>Should the property be affected by the servitude, a professional independent land valuer will be appointed to conduct the Strip and Specific Valuation reports. The landowner will meet the Eskom negotiator to discuss the valuation report, and the specific valuation will indicate the difference between the values of the property before the powerline is constructed, and after construction has occurred. The 'willing-to-sell, willing-to-buy' rule will also apply, which means that Eskom is willing to buy the property at the market value based on the valuation report done by the independent valuer.</p> |
| <p>86 The instance of vested rights and the socio-economic impact in respect thereof, have not been subjected to the public participation process, nor did such significant impact form part of the Impact Assessment undertaken.</p> | <p>A social specialist is appointed to undertake the Social Impact Assessment (SIA) , these impact will be further assessed in the EIA phase.</p> |
| <p>87 Our Client submits that the significant adverse impact on its Constitutional Property Rights, should have informed the identification and consideration of alternatives in material respects. This was not done in this matter. The manner, in which the proposed activities might affect our Client's property rights, has not been identified or considered or taken into consideration when the impact of the proposed activity was assessed.</p> | <p>A Social and Socio-economic impacts of the recommended line will be done in the EIA phase, and the significant adverse impact on landowner properties will be assessed in detail.</p> |
| <p>88 Our Client submits that the desirability of the proposed activity will also be significantly affected in view of the infringement on its Constitutional Property Rights and that all identified impact must be assessed against the current vested rights of our Client.</p> | <p>A Social and Socio-economic impacts of the recommended line will be done in the EIA phase, and the significant adverse impact on landowner properties will be assessed in detail. All identified impacts will be assessed against landowner vested rights.</p> |

89 As remarked above, Eskom is a state-owned utility and the first principle should be that the state uses its own properties over which these linear activities can be undertaken. Our Client alerts the competent authority to the fact that the property to the North and adjacent to our Client's property, is owned by the state and the preferred alternative for the state and Eskom, should be to construct the proposed power lines as well as the incidental infrastructure, over the state owned land and not over private property, at an enormous cost to the public. This is a very relevant factor which has not been properly considered by neither the EAP nor Eskom, nor was it dealt with in the Environmental

Eskom servitude will be registered after the receipt of the EA. Eskom appoints the independent Professional valuer to evaluate the affected property. Then the Valuer contacts the rightful landowner and visit the property to compile the valuation report that will determine the compensation to be paid. Eskom representative visits the landowner to negotiate with the landowner for the acquisition of the servitude. Once the landowner signs the Option to acquire the servitude the process of servitude registration commences. Servitude registration takes about six months. The compensation will be paid after the registration

90 For the reasons stated above, our Client submits that the Draft Environmental Reports are fatally flawed and the competent authority, in terms of the EIA Regulations, cannot accept the Draft Environmental Reports in their current form.

All these aspects of a Scoping report as per Appendix have been covered in this Scoping Report, and have been accepted by the DEA as adhering to the minimum requirements.

It must further be noted that the scoping phase includes the desk-top studies and served to identify potential impacts associated with the proposed project and to define the extent of studies required within the EIA Phase. Input from the project proponent, specialists with experience in the study area and in EIAs for similar projects, as well as a public consultation process with key stakeholders, which included both government authorities and interested and affected parties (I&APs), was included in the evaluation of impacts.

The EIA Phase will then aim to address those identified potential environmental impacts and benefits (direct, indirect and cumulative impacts) associated with the project including design, construction, operation, and decommissioning, and recommend appropriate mitigation measures for potentially significant environmental impacts. The EIA reports will the aim to provide the environmental authorities with sufficient information to make an informed decision regarding the proposed project.