

## **5. LEGISLATIVE CONTEXT**

### **5.1. Introduction**

This Legal Review is undertaken and compiled by Jennifer Howarth in her capacity as an environmental legal specialist. It is based on the Scoping recommendation for the new wet ash disposal facility to be established on alternative site E.

The following Acts are applicable to this project:

- National Environmental Management Waste Act, Act 59 of 2008
- The National Environmental Management: Air Quality Act No 39 of 2004;
- GN R1179 (GG 16536 of 25 August 1995) – Hazardous Chemical Substances Regulations promulgated in terms of the Occupational Health and Safety Act No 85 of 1993;
- Hazardous Substances Act No 15 of 1973
- Constitution of South Africa, 1996 (with reference to noise)
- Explosives Act No 26 of 1956 and Regulation 1604 of 8 September 1972;
- National Environmental Management Act No 107 of 1998 (with reference to noise and prevention of pollution)
- National Environmental Management: Biodiversity Act No 10 of 2004 (in respect of Fauna, Flora and National Heritage Resources)
- Conservation of Agricultural Resources Act No 43 of 1989 (in respect of Fauna, Flora and National Heritage Resources)
- National Forest Act No 84 of 1998 (in respect of protected trees)
- National Veld and Forest Fire Act No 101 of 1998
- National Heritage Resources Act No 25 of 1999
- Promotion of Access to Information Act No 2 of 2000 (in respect of record-keeping and interested and affected parties and monitoring of environmental impacts)

The process also investigates the alignment of the Hendrina Wet Ash Disposal Facility Extension project with the NEMA Principles as well as with the Equator Principles and those of the International Finance Corporation (IFC) Performance Standards on Social and Environmental Sustainability

## 5.2. Legal Review

### 5.2.1. Atmospheric Pollution

Legislation	Specific compliance requirements	Legal commentary and recommended action
<b>National Environmental Management: Air Quality Act No 39 of 2004</b>	Section 32 – Control of dust	Prevention of nuisance by dust and measures for the control of dust. During the construction of the new wet ash disposal facility, dust must be prevented by taking measures to control same. Current dust sources include vehicles and wind erosion.
	Section 35 – Control of offensive odours	Ensure that no offensive odours are emitted by any of the activities of Eskom in constructing the wet ash disposal facility.
	<b>DIESEL VEHICLE REGULATIONS</b> GN R 1651 (GG 4393 of 20 September 1974)	Eskom to ensure that no diesel driven vehicles to be used on any public roads if the noxious or offensive gases emitted by the engine of the vehicle is of a density greater than prescribed in this Regulation.

### 5.2.2. Waste Management

Legislation	Specific compliance requirements	Legal commentary and recommended action
<b>National Environmental Management: Waste Act No 59 of 2008</b>	Section 16 - General duty in respect of waste management	Eskom (as a 'holder of waste') must take reasonable measures to avoid the generation of waste and the minimization of the toxicity and amounts of waste generated and also to reduce, recycle and recover waste. Waste must be disposed of in an environmentally sound manner. It must not cause a nuisance through noises, odour or visual impacts
	Section 17 - Reduction, re-use, recycling and recovery of waste	Any activity involving the reduction, re-use, recycling or recovery of waste must use less natural resources than the disposal of such waste and must be less harmful to the

		environment than the disposal of such waste
	Section 20 - Consequences of listing waste management activities	If Eskom intends to undertake a waste management activity, it must be in accordance with the waste management license for that activity. A waste management activity includes the generation, accumulation, storage, re-use, recycling and disposal of waste.
	Section 26 - Prohibition of unauthorised disposal	No person may dispose of waste in or on any land, waterbody or at any facility unless the disposal is authorised by law; or dispose of waste in a manner that is likely to cause pollution of the environment or harm to health and well-being.
	Section 45 - Application for waste management licenses	This section sets out the provisions regarding the application for waste management licenses.
	<b>R718 of 2009 (GG 32368 of 03/07/2009)</b>	This regulation lists the waste management activities that have, or are likely to have a detrimental effect on the environment.
	Regulation 1 – Definitions	Eskom to note that the definition of a 'lagoon' includes an wet ash disposal facility and 'temporary storage' means continuous storage of waste excluding a once off storage of waste for a period not exceeding 90 days.
	Regulation 2 – General	It must be noted that Eskom may not undertake or conduct a waste management activity listed in this schedule unless a license is issued in respect of that activity.
	Category B	The following listed activities apply:

		<p>Activity 1: The storage including the temporary storage of hazardous waste in lagoons</p> <p>Activity 9: The disposal of any quantity of hazardous waste to land</p> <p>Activity 11: The construction of facilities for activities listed in Category B of this schedule (not in isolation to associated activity)</p>
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### 5.2.3. Hazardous Substances

Legislation	Specific compliance requirements	Legal commentary and recommended action
<b>Occupational Health and Safety Act No 85 of 1993</b>	GN R1179 (GG 16536 of 25 August 1995 – Hazardous Chemical Substances Regulations	These regulations contain provisions regarding the handling of hazardous substances and it is mainly aimed at the occupational hygiene side thereof, including the assessment of potential exposure, medical surveillance, PPE, etc. Eskom use fuels, oils, solvents, etc and these regulations need to be taken cognizance of in terms of the transport, storage, handling and disposal thereof.
<b>Hazardous Substances Act No 15 of 1973</b>	Various sections of this Act apply.	Eskom must identify the various groups of hazardous substances which will be used in terms of the extension of the wet ash disposal facilities. These substances should then be classed in terms of SANS10228 to ensure that they are stored properly and that the MSDS's are in place in the event of a spill
<b>Explosives Act No 26 of 1956 and R1604 of September 1972</b>	Various sections of this Act will apply in respect of the use, handling, transport, storage and disposal of explosives	Various sections of this Act and the regulations will apply in the event that blasting will take place in the construction of the wet ash disposal facility and associated infrastructure.

**5.2.4. Water Consumption and Disposal**

<b>Legislation</b>	<b>Specific compliance requirements</b>	<b>Legal commentary and recommended action</b>
<b>National Water Act No 36 of 1998</b>	Section 19 – Prevention and remedying effects of pollution	<p>This section places a duty on Eskom to establish whether any of its activities caused, causes or may cause pollution to a water resource. In order to do this, monitoring of water must be done on a regular basis. If any such pollution or possible pollution has been identified, reasonable measures must be taken to prevent the continuation or recurrence thereof. The effectiveness thereof must be monitored and if such pollution is not prevented, other measures must be investigated. Measures must also be taken for any future activities which may cause pollution to water resources.</p> <p>The CMA has been given extensive powers in prevention or remedying the effects of pollution of water resources and may recover their costs in any action, which could become quite significant.</p> <p>The Wet ash disposal facility must be constructed in such a way as to ensure that maintenance can be performed to ensure that there are no leakages. Water quality must also be monitored to ensure no pollution to the environment in the event of leakages.</p>
	Section 20 - Control of emergency incidents	Eskom needs to identify the possibility of any substances used which may cause significant pollution of water resources during an accident or incident. Management procedures need to be implemented to prevent such accident or incident
	Section 21(c) - Impeding or diverting the flow of water in a <a href="#">watercourse</a> ; and Section 21(i) – Altering the bed, banks, course or	Although Eskom have an existing water license, it will have to be amended by the addition of an application in terms of sections 21(c) and 21(i) due to the presence of

	characteristics of a <a href="#">watercourse</a>	wetlands on the preferred site.
	GN No 1198 of 18 December 2009 – General Authorisation in terms of section 39 of the National Water Act, 1998 in terms of section 21(c) and (i) for the purpose of rehabilitating a wetland for conservation purposes	“altering the bed, banks, course or characteristics of a watercourse” means any change affecting the resource quality within the riparian habitat or 1:100 year floodline, whichever is the greater distance at the date of commencement of this notice”
	GN No 1199 of 18 December 2009 – Replacement of General Authorisation in terms of section 39 of the National Water Act, 1998	This notice does not apply to the use of water in terms of section 21(c) and (i) for the rehabilitation of a wetland. The notice also does not apply to the use of water in terms of section 21(c) and (i) within a 500 metre radius from the boundary of any wetland

### 5.2.5. Noise

Legislation	Specific compliance requirements	Legal commentary and recommended action
<b>Constitution of South Africa, 1996</b>	Section 24 – Everybody has the right to an environment that is not harmful to their health or well-being.	Eskom must ensure that noise levels are minimized and where it cannot be minimized that the correct PPE is provided. A survey should be conducted to establish if any disturbing noises are caused by the activities of Eskom.
<b>National Environmental Management: Air Quality Act No 39 of 2004</b>	Section 34 – Control of noise	Ensure that no noise pollution exists. The Minister may prescribe national standards for the control of noise, either in general or by specified machinery or activities or in specified places or areas or for determining a definition of noise and the maximum levels of noise. When controlling noise the provincial and local spheres of government are bound by any prescribed national standards. Eskom to note this in the construction phase.

### 5.2.6. Fauna, Flora and National Heritage Resources

Legislation	Specific compliance requirements	Legal commentary and recommended action
This section of the review is inserted only for information purposes. The assumption is made that specialist studies had already covered these aspects.		
<b>National Environmental Management: Biodiversity Act No 10 of 2004</b>	Section 56 – Listing of species that are threatened or in need of national protection	Ensure that no species which are listed as threatened or in need of protection occur on site.
	Section 69 – Duty of care relating to alien species	Ensure that no alien species are established on site.
	Section 75 - Control and eradication of listed invasive species	Once a survey has been conducted to establish if there are listed invasive species and they do occur on site, they must be controlled and eradicated.
<b>Conservation of Agricultural Resources Act No 43 of 1989</b>	Section 5 – Prohibition of the spreading of weeds	Ensure that weeds are not spread on site.
	GN R. 1048 (GG 9238 of 25 May 1984) Regulation 15 – Declared weeds and invader plants	A survey should be conducted to establish which weeds and invader plants occur on site. Steps should then be taken to control and/or eradicate weeds as provided for in these regulations.
<b>National Forest Act No 84 of 1998</b>	Section 12 – Declaration of trees as protected R1080 of 2008(GG 31482 of 3 October 2008) – Notice of list of protected trees	A survey should be conducted to verify if there are any protected trees on site and if there are, it should be noted that these trees may not be cut, damaged, destroyed, etc for the purpose of clearing any areas on site.  The effect of this declaration is that in terms of section 15(1) of the National Forests Act, 1998, no person may cut, disturb, damage or destroy any protected tree or possess, collect, remove, transport, export, purchase, sell, donate or in any other manner acquire or dispose of any protected tree or any forest product derived from a protected tree, except under a license granted by the Minister to an applicant and subject to such period and conditions as may be stipulated.
<b>National Veld and Forest Fire Act No 101 of 1998</b>	Section 12 – Duty to prepare and maintain fire breaks	Note that fire breaks need to be prepared and maintained.

	Section 17 – Readiness for fire fighting	Eskom to ensure that firefighting equipment is serviced and maintained on a regular basis.
<b>National Heritage Resources Act No 25 of 1999</b>	Section 36 – Burial grounds and graves	One grave has been identified on site.

**5.2.7. Planning of New Activities**

<b>Legislation</b>	<b>Specific compliance requirements</b>	<b>Legal commentary and recommended action</b>	
<b>National Environmental Management Act No 107 of 1998</b>	Regulation 544 of 2010 (GG 33306 of 18 June 2010) – Listing notice 1: List of activities and competent authorities identified in terms of section 24(2) and 24D	These regulations set out the activities and competent authorities.	
	Regulation 3 – Identified activities and competent authorities	The activities listed in Appendix 1 may not commence without an environmental authorisation from the competent authority.	
	Appendix 1	Activity 9: The construction of facilities or infrastructure exceeding 1000 metres in length for the bulk transportation of water, sewage or stormwater (i) With an internal diameter of 0.36 metres or more; or (ii) With a peak throughput of 120 litres per second or more.	
		Activity 10: The construction of facilities or infrastructure for the transmission and distribution of electricity outside urban areas or industrial complexes with a capacity of more than 33 but less than 275kV.  <i>Due to the outcome of the Scoping report, recommending Alternative E as the preferred alternative as well as additional information received during the process, the</i>	

		<p><i>following activities have been added to the list:</i></p> <p>Activity 12: The construction of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, with a combined capacity of 50 000 cubic metres or more, unless such storage falls within the ambit of activity 19 of Notice 545 of 2010</p> <p>Activity 27: The decommissioning of existing facilities or infrastructure for (ii) electricity transmission and distribution with a threshold of more than 132 kV, but excluding any facilities or infrastructure that commenced under an environmental authorisation issued in terms of the Environmental Impact Assessment Regulations, 2006, made under section 24(5) of the Act and published in Government Notice No. R. 385 of 2006, or Notice No. 543 of 2010</p> <p>Activity 37: The expansion of facilities or infrastructure for the bulk transportation of water, sewage or storm water where: (a) the facility or infrastructure is expanded by more than 1 000 metres in length; or (b) where the throughput capacity of the facility or infrastructure will be increased by 10% or more. Excluding where such expansion; (i) relates to transportation of water, sewage or storm water within a road reserve; or (ii) where such expansion will occur within urban areas but further than 32 metres from a watercourse, measured from the edge of the water course</p> <p>Regulation 545 of 2010 (GG 33306 of 18 June 2010) – Listing notice 2: List of activities and competent authorities identified in terms of sections 24(2) and 24D</p> <p>These regulations set out the activities and competent authorities.</p>
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	Regulation 3 – Identified activities and competent authorities	The activities identified in Appendix 1 may not commence without environmental authorization from the competent authority.
	Appendix 1	Activity 6: The construction of facilities or infrastructure for the bulk transportation of dangerous goods in solid form, outside an industrial complex, using funiculars or conveyors with a throughput capacity of more than 50 tons per day
		Activity 15: Physical alteration of undeveloped, vacant or derelict land for residential, retail, commercial, recreational, industrial or institutional use, where the total area to be transformed is 20 hectares or more.
		<i>Due to the outcome of the Scoping report, recommending Alternative E as the preferred alternative as well as additional information received during the process, the following activity has been added to the list:</i>  Activity 8: The construction of facilities or infrastructure for the transmission and distribution of electricity with a capacity of 275 kV or more, outside an urban area or industrial complex
<b>Minimum Requirements for waste disposal by landfill issued by the Department of Water Affairs and Forestry</b>	4.4 Elimination of areas with inherent fatal flaws	It is a minimum requirement that no landfill site be developed in an area with an inherent fatal flaw. The situations set out in this document may represent fatal flaws in that they may prohibit the development of an environmentally or publicly acceptable waste disposal facility except at excessive costs and should be considered in electing a suitable site.

### 5.2.8. General Obligations

Legislation	Specific compliance requirements	Legal commentary and recommended action
<b>National Environmental Management Act No 107 of 1998</b>	Section 28 – Duty of care and remediation of environmental damage	Employees must be informed and educated about the environmental risks of their work and the manner in which their tasks must be performed to avoid significant pollution. All potentially significant environmental impacts must be investigated, assessed and evaluated. Measures must be taken to cease, modify or control those acts, activities or processes that have been identified as potentially causing significant pollution.
<b>Promotion of Access to Information Act No 2 of 2000</b>	In terms of this Act any person may approach the courts for relief in the event that such person believes that his right to a clean and healthy environment has been affected. To this effect, such person shall be entitled to the records of the company allegedly causing the pollution.	To this effect Eskom must ensure that record keeping is accurate and that monitoring of all environmental impacts take place.

### 5.3. Consistency with National Environmental Management Act (NEMA) Principles

In order to demonstrate how the wet ash disposal facility Extension and the EIA process is consistent with the NEMA principles, a discussion of how these principles have been taken into account is provided in **Table 5.1** below. The manner in which Eskom complies with the NEMA principles is also investigated within the legal specialist study.

**Table 5.1:** The consistency of the wet ash disposal facility Extension EIA process with the NEMA Principles

NEMA Principles	Discussion
(2) Environmental management must place people and their needs at the forefront of its concern, and serve their physical,	Although all the specialists undertake their studies from a sustainability point of view, this principle was specifically upheld by specialists undertaking the studies within the social environment such as Air Quality, Visual Impact, Noise Impact, Socio-Economic Impact and

NEMA Principles	Discussion
psychological, developmental, cultural and social interests equitably.	Heritage. All studies included the assessment of impacts that either directly or indirectly affect people and their living environment.
(3) Development must be socially, environmentally and economically sustainable.	All studies were required to uphold the principle of sustainable development. The extension of the wet ash disposal facilities will be constructed, operated and decommissioned according to the Environmental Management Policies and Systems that apply to it.
(4) (a) Sustainable development requires the consideration of all relevant factors including the following:	
(i) That the disturbance of ecosystems and loss of biological diversity are avoided, or, where they cannot be altogether avoided, are minimised and remedied;	All specialist studies have included recommendations and mitigation measures that encourage the minimisation or avoidance of the disturbance of ecosystems, in particular a number of buffer zones surrounding sensitive wetlands have been imposed. These mitigation measures have been included along with other more generic specifications in the Environmental Management Plan (EMP).  Eskom will adhere to the Environmental Management Plan (EMP) developed for its construction and operation.
(ii) that pollution and degradation of the environment are avoided, or, where they cannot be altogether avoided, are minimised and remedied;	All specialist studies have included recommendations and mitigation measures that encourage the minimisation or avoidance of pollution and degradation of the study area due to construction and operational activities. These mitigation measures have been included along with other more generic specification in the Environmental Management Plan.  Eskom shall adhere to the EMP developed for its construction and operation.
(iii) that the disturbance of landscapes and sites that constitute the nation's cultural heritage is avoided, or where it cannot be altogether avoided, is minimised and remedied;	The Heritage Impact Assessment investigated this principle. No heritage features were identified to be affected by the facility and mitigation and management measures have been recommended for use in the event that heritage sites or artifacts are discovered during the construction period.  Eskom shall adhere to the EMP developed for its construction and operation.
(iv) that waste is avoided or where it cannot be altogether avoided, minimised and re-used or recycled where possible and	In the event that a specialist study found waste to be an issue, mitigation measures have been imposed. These mitigation measures have been included along with other more generic specification in the Environmental Management Plan.

NEMA Principles	Discussion
otherwise disposed of in a responsible manner;	Eskom shall adhere to the EMP developed for its construction and operation.
(v) that the use and exploitation of non-renewable natural resources is responsible and equitable, and takes into account the consequences of the depletion of the resource;	<p>The EMP includes specifications which outline the wise use of non-renewable resources on site during both construction and operational phases.</p> <p>Eskom will adhere to the EMP developed for its construction and operation.</p>
(vi) that the development, use and exploitation of renewable resources and the ecosystems of which they are part do not exceed the level beyond which their integrity is jeopardised;	<p>The development of the wet ash disposal facility extends the use of a coal-fired power station. Renewable energy sources would represent the most benefits to the environment. Unfortunately, the technologies currently available are such that they cannot fulfil South Africa’s immediate and future energy requirements on a commercial scale. However, Eskom has committed to and is in the process of investigating viable renewable options through other projects such as wind generation and the Concentrating Solar Power Plants.</p> <p>Eskom strives to assist in reducing stress on existing resources and the ecosystems of which they are part. Eskom shall also adhere to the EMP developed for the construction and operation of the wet ash disposal facility.</p>
(vii) that a risk-averse and cautious approach is applied, which takes into account the limits of current knowledge about the consequences of decisions and actions; and	<p>As Eskom has undertaken the construction of wet ash disposal facilities previously, this project should not be considered as risky. In conducting this EIA it can be said that a “Cautious approach” is being followed as Eskom will scrutinize all relevant potential impacts.</p> <p>Risk is inherent in any new development, the EIA has endeavoured to identify these risks and recommend sufficient measures that can be implemented in order to minimise the risks to acceptable levels. In terms of the specialist studies undertaken for the EIR, specialists have undertaken their studies utilising data that represents the “Worst-Case Scenario” thus also up holding a cautious approach to their studies.</p>
(viii) that negative impacts on the environment and on people’s environmental rights be anticipated and prevented, and where they cannot be altogether prevented,	The EIA process in itself is a tool that is utilised to ensure that impacts on the environment and on people’s rights are anticipated. Where a specialist study identified a negative impact, mitigation measures have been proposed in order to either prevent or minimise the impact. These mitigation measures have been included along with other more generic specifications in the Environmental

NEMA Principles	Discussion
are minimised and remedied.	<p>Management Plan.</p> <p>Eskom shall adhere to the EMP developed for its construction and operation.</p>
(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.	<p>The EIA and all specialist studies have been undertaken taking best practice principles into consideration. The integration of the studies was ensured by specialist interaction during the study period and the integration of their findings.</p> <p>The construction, operation and decommissioning of the wet ash disposal facility project will be undertaken in recognition of the need for a holistic approach to environmental management.</p>
(4) (c) Environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons.	<p>All studies were required to uphold the principle of sustainable development. The preferred site is located on Alternative E site which was identified as the site that would minimise the new risks and injustices that may have been identified should this facility have been placed on any of the other alternative sites.</p>
(4) (d) Equitable access to environmental resources, benefits and services to meet basic human needs and ensure human well-being must be pursued and special measures may be taken to ensure access thereto by categories of persons disadvantaged by unfair discrimination.	<p>All studies were required to uphold the principle of sustainable development. The project in totality will benefit the community nationally, regionally and locally. The project will give greater certainty in terms of the ability to provide present and future needs for electricity to all sectors of the populations including those that may have been disadvantaged by unfair discrimination. Locally communities may benefit from aspects such as limited job creation particularly within the construction phase.</p>
(4) (e) Responsibility for the environmental health and safety consequences of a policy, programme, project, product, process, service or activity exists throughout its life cycle.	<p>The EIA addressed impacts throughout the life cycle of the development from construction to decommissioning. All specialist studies were also required to uphold the principle of sustainable development. The Environmental Management Plan and the auditing processes as required by Eskom's Environmental Management System will ensure that these responsibilities are upheld throughout the projects' life cycle.</p>
(4) (f) The participation of all interested	<p>A comprehensive Public Participation Process has been undertaken. I&amp;APs have been given the</p>

NEMA Principles	Discussion
<p>and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured.</p>	<p>opportunity to comment on the EIA. Public input will continue through to the construction, operational and decommissioning stages of the project through the provisions that have been made in the EMP to appoint a community liaison officer, whose duties must include communication regarding environmental issues.</p>
<p>(4) (g) Decisions must take into account the interests, needs and values of all interested and affected parties, and this includes recognizing all forms of knowledge. Including traditional and ordinary knowledge.</p>	<p>The comments and queries from I&amp;APs have all been either taken into account or responded to within the studies undertaken. Communication will continue through to the construction, operational and decommissioning stages of the project through the provisions that have been made in the EMP to appoint a community liaison officer.</p>
<p>(4) (h) Community wellbeing and empowerment must be promoted through environmental education, the raising of environmental awareness, the sharing of knowledge and experience and other appropriate means.</p>	<p>The Social Impact Assessment recommends that a comprehensive awareness creation campaign that includes the dissemination of information regarding energy generation, different generation technologies as well as their associated potential risk, health and safety issues is undertaken. The EMP has upheld this recommendation. All contractors and operators involved in the wet ash disposal facility construction and operation shall adhere to the EMP.</p>
<p>(4) (i) The social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated, and decisions must be appropriate in the light of such consideration and assessment.</p>	<p>The EIA assesses the advantages and disadvantages of the project.</p> <p>This implies continuous monitoring and updating of input data throughout the project's lifecycle.</p> <p>The social and environmental impacts of the project have similarly been identified, studied assessed and mitigation measures proposed.</p>
<p>(4) (j) The right of workers to refuse work that is harmful to human health or the environment and to be informed of dangers must be respected and protected.</p>	<p>Eskom shall adhere to the EMP developed for its construction and operation.</p>

NEMA Principles	Discussion
(4) (k) Decisions must be taken in an open and transparent manner, and access to information must be provided in accordance with the law.	<p>All documentation compiled as a result of the EIA process has been made available for public comment and scrutiny, as per legal requirements and best practice.</p> <p>Communication will continue through to the construction and operational stages of the project through the provisions that have been made in the EMP to appoint a community liaison officer.</p>
(4) (l) There must be intergovernmental co-ordination and harmonisation of policies, legislation and actions relating to the environment.	<p>The EIA process makes allowance for discussion between different authorities at local, provincial and national levels. Intergovernmental coordination on this project includes co-operation between the National Department of Environmental Affairs (DEA), the Mpumalanga Department of Economic Development, Environment and Tourism (MDEDET) and The Department of Water Affairs (DWA).</p>
(4) (m) Actual or potential conflicts of interest between organs of state should be resolved through conflict resolution procedures.	<p>The Public Participation Process endeavoured to ensure that conflict between organs of state was minimised throughout the project duration.</p>
(4) (n) Global and international responsibilities relating to the environment must be discharged in the national interest.	<p>All specialist studies have endeavoured to up hold this principle.</p> <p>The wet ash disposal facility will be constructed, operated and decommissioned according to the Environmental Management Policies and Systems that apply to it. All specialist studies have endeavoured to up hold this principle.</p> <p>The wet ash disposal facility will be constructed, operated and decommissioned according to the Environmental Management Policies and Systems that apply to it.</p>
(4) (o) The environment is held in public trust for the people, the beneficial use of environmental resources must serve the public interest and the environment must be protected as the people's common heritage.	<p>This project is needed as Hendrina have to extend its ashing facilities and associated infrastructure. This need for the extension is to allow the station to continue ashing in an environmentally responsible way for the life of the station. The provision of electricity is seen to be in the public interest.</p> <p>All specialist studies have endeavoured to up hold this principle.</p> <p>The extension of the ashing facilities and associated infrastructure will be constructed, operated</p>

NEMA Principles	Discussion
	and decommissioned according to the Environmental Management Policies and Systems that apply to it.
(4) (p) The costs of remedying pollution, environmental degradation and consequent adverse health effects and of preventing, controlling or minimizing further pollution, environmental damage or adverse health effects must be paid for by those responsible for harming the environment.	<p>This principle is upheld in the EIA as it will be the responsibility of Eskom to ensure that pollution control and rehabilitation are undertaken. In addition to this the relevant contractors appointed will be responsible for the development of method statements to ensure the minimisation of all impacts and will be responsible for their own areas of disturbance.</p> <p>The construction of the ashing facilities and associated infrastructure will be constructed, operated and decommissioned according to the Environmental Management Policy and Programme that apply to it.</p>
(4) (q) The vital role of women and youth in environment management and development must be recognised and their full participation therein must be promoted.	<p>The Public Participation Process has endeavoured to include the participation of all role-players including women and youth in this project.</p> <p>Communication with the public (Including women and the youth) will continue through to the construction, operational and decommissioning stages of the project through the provisions that have been made in the EMP to appoint a community liaison officer.</p> <p>Employment equity will also be an important part of this project moving forward in terms of providing work to local communities and to Previously Disadvantaged Individuals (including women).</p>
(4) (r) Sensitive, vulnerable, highly dynamic or stressed ecosystems, such as coastal shores, estuaries, wetlands and similar systems require specific attention in management and planning procedures, especially where they are subject to significant human resource usage and development pressure.	<p>This principle has been upheld in this EIA. The design of the layout of infrastructure on the preferred site has required extensive liaison with specialists regarding issues such as buffer zones and the various mitigation measures that may be required. In particular the site layout has been revised after buffer zones where recommended by the wetland and flora specialists in order to protect wetlands in the area.</p> <p>Eskom shall adhere to the EMP developed for its construction and operation.</p>

## **5.4. The “Equator Principles”**

Project financing, a method of funding in which the lender looks primarily to the revenues generated by a single project both as the source of repayment and as security for the exposure, plays an important role in financing development throughout the world. Project financiers may encounter social and environmental issues that are both complex and challenging, particularly with respect to projects in the emerging markets.

The Equator Principles Financial Institutions (EPFIs) have adopted a set of principles to ensure that projects financed by them are developed in a manner that is socially responsible and reflects sound environmental management practices. By doing so, negative impacts on project-affected ecosystems and communities should be avoided where possible, and if these impacts are unavoidable, they should be reduced, mitigated and/or compensated for appropriately.

EPFIs will only provide loans to projects that conform to Principles 1-9 below:

### **Principle 1: Review and Categorisation**

When a project is proposed for financing, the EPFI will, as part of its internal social and environmental review and due diligence, categorise the project based on the magnitude of its potential impacts and risks in accordance with the environmental and social screening criteria of the International Finance Corporation (IFC).

The IFCs environmental and social screening criteria are as follows:

- Category A: Projects with potential significant adverse social or environmental impacts that are diverse, irreversible or unprecedented;
- Category B: Projects with potential limited adverse social or environmental impacts that are few in number, generally site-specific, largely reversible and readily addressed through mitigation measures; and
- Category C: Projects with minimal or no social or environmental costs.

It is anticipated that the Hendrina Wet Ash Disposal Facility Extension EIA falls within Category B.

### **Principle 2: Social and Environmental Assessment**

For each project assessed as being Category B, the borrower is required to conduct a Social and Environmental Assessment (“Assessment”) process to address, as appropriate and to

the EPFI's satisfaction, the relevant social and environmental impacts and risks of the proposed Project. The Assessment should also propose mitigation and management measures relevant and appropriate to the nature and scale of the proposed Project.

### **Principle 3: Applicable Social and Environmental Standards**

For projects located in non-OECD<sup>1</sup> countries, the Assessment will be required to refer to the then applicable IFC Performance Standards (Exhibit III) and the then applicable Industry Sector Environmental, Health and Safety Guidelines ("EHS Guidelines") (Exhibit IV)<sup>2</sup>.

The Environmental, Health, and Safety (EHS) Guidelines are technical reference documents with general and industry-specific examples of Good International Industry Practice (GIIP). These General EHS Guidelines are designed to be used together with the relevant Industry Sector EHS Guidelines which provide guidance to users on EHS issues in specific industry sectors.

As of April 30, 2006, the following IFC Performance Standards were applicable:

- Performance Standard 1: Social & Environmental Assessment & Management System;
- Performance Standard 2: Labour and Working Conditions
- Performance Standard 3: Pollution Prevention and Abatement
- Performance Standard 4: Community Health, Safety and Security
- Performance Standard 5: Land Acquisition and Involuntary Resettlement
- Performance Standard 6: Biodiversity Conservation and Sustainable Natural Resource Management
- Performance Standard 7: Indigenous Peoples
- Performance Standard 8: Cultural Heritage

The Performance Standards are elaborated on below.

As of April 30, 2007 the World Bank Group Environmental, Health, and Safety (EHS) Guidelines are now in use<sup>3</sup>. Prior to this, the EHS Guidelines consisted of the industry sector environmental guidelines contained in Part III of the World Bank Pollution Prevention and

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<sup>1</sup> The Organisation for Economic Co-operation and Development (OECD) brings together the governments of [countries committed to democracy and the market economy](#) from around the world to: support sustainable economic growth; boost employment; raise living standards; maintain financial stability; assist other countries' economic development and contribute to growth in world trade.

<sup>2</sup> These are available at: <http://www.ifc.org/ifcext/sustainability.nsf/Content/EnvironmentalGuidelines>

<sup>3</sup> <http://www.ifc.org/ifcext/policyreview.nsf/Content/EHSGuidelinesUpdate#What>

Abatement Handbook (PPAH) which went into official use on July 1, 1998 and a series of EHS guidelines published in the IFC web site between 1991 and 2003.

Of application are the General EHS Guidelines as well as the Sector Specific EHS Guidelines for Electric Power Transmission and Distribution.

The General EHS Guidelines are as follows:

### **Environmental**

- Air Emissions and Ambient Air Quality
- Energy Conservation
- Wastewater and Ambient Water Quality
- Water Conservation
- Hazardous Materials Management
- Waste Management
- Noise
- Contaminated Land

### **Occupational Health and Safety**

- General Facility Design and Operation
- Communication and Training
- Physical Hazards
- Chemical Hazards
- Biological Hazards
- Radiological Hazards
- Personal Protective Equipment (PPE)
- Special Hazard Environments
- Monitoring

### **Community Health and Safety**

- Water Quality and Availability
- Structural Safety of Project Infrastructure
- Life and Fire Safety (L&FS)
- Traffic Safety
- Transport of Hazardous Materials
- Disease Prevention
- Emergency Preparedness and Response

### **Construction and Decommissioning**

- Environment

- Occupational Health and Safety
- Community Health and Safety

The Assessment will be required to establish to a participating EPFI's satisfaction the project's overall compliance with, or justified deviation from, the respective Performance Standards and EHS Guidelines. The Assessment process should address compliance with relevant host country laws, regulations and permits that pertain to social and environmental matters.

#### **Principle 4: Action Plan and Management System**

For all Category A and Category B projects located in non-OECD countries, the borrower is required to prepare an Action Plan (AP) which addresses the relevant findings, and draws on the conclusions of the Assessment. The AP is required to describe and prioritise the actions needed to implement mitigation measures, corrective actions and monitoring measures necessary to manage the impacts and risks identified in the Assessment. Borrowers are required to build on, maintain or establish a Social and Environmental Management System that addresses the management of these impacts, risks, and corrective actions required to comply with applicable host country social and environmental laws and regulations, and requirements of the applicable Performance Standards and EHS.

#### **Principle 5: Consultation and Disclosure**

For all Category A and, as appropriate, Category B projects located in non-OECD countries, the government, borrower or third party expert is required to consult with project affected communities in a structured and culturally appropriate manner. For projects with significant adverse impacts on affected communities, the process is required to ensure their free, prior and informed consultation and facilitate their informed participation as a means to establish, to the satisfaction of the EPFI, whether a project has adequately incorporated affected communities' concerns.

In order to accomplish this, the Assessment documentation and AP, or non-technical summaries thereof, is required to be made available to the public by the borrower for a reasonable minimum period in the relevant local language and in a culturally appropriate manner. The borrower is required to take account of and document the process and results of the consultation, including any actions agreed resulting from the consultation. For projects with adverse social or environmental impacts, disclosure should occur early in the Assessment process and in any event before the project construction commences, and on an ongoing basis.

### **Principle 6: Grievance Mechanism**

For all Category A and, as appropriate, Category B projects located in non-OECD countries, the Borrower is required to ensure that consultation, disclosure and community engagement continues throughout construction and operation of the project, the borrower will, scaled to the risks and adverse impacts of the project, establish a grievance mechanism as part of the management system. This will allow the borrower to receive and facilitate resolution of concerns and grievances about the project's social and environmental performance raised by individuals or groups from among project-affected communities. The borrower is required to inform the affected communities about the mechanism in the course of its community engagement process and ensure that the mechanism addresses concerns promptly and transparently, in a culturally appropriate manner, and is readily accessible to all segments of the affected communities.

### **Principle 7: Independent Review**

For all Category A and, as appropriate, Category B projects, an independent social or environmental expert not directly associated with the borrower is required to review the Assessment, AP and consultation process documentation in order to assist EPFI's due diligence, and assess Equator Principles compliance.

### **Principle 8: Covenants**

An important strength of the Principles is the incorporation of covenants linked to compliance. For Category A and B projects, the borrower will covenant in financing documentation and is required to do the following:

- to comply with all relevant host country social and environmental laws, regulations and permits in all material respects;
- to comply with the AP (where applicable) during the construction and operation of the project in all material respects;
- to provide periodic reports in a format agreed with EPFIs (with the frequency of these reports proportionate to the severity of impacts, or as required by law, but not less than annually), prepared by in-house staff or third party experts, that i) document compliance with the AP (where applicable), and ii) provide representation of compliance with relevant local, state and host country social and environmental laws, regulations and permits; and
- to decommission the facilities, where applicable and appropriate, in accordance with an agreed decommissioning plan.

Where a borrower is not in compliance with its social and environmental covenants, EPFIs will work with the borrower to bring it back into compliance to the extent feasible, and if the borrower fails to re-establish compliance within an agreed grace period, EPFIs reserve the right to exercise remedies, as they consider appropriate.

### **Principle 9: Independent Monitoring and Reporting**

To ensure ongoing monitoring and reporting over the life of the loan, EPFIs will, for all Category A and, as appropriate, Category B projects, require appointment of an independent environmental and/or social expert, or require that the borrower retain qualified and experienced external experts to verify its monitoring information which would be shared with EPFIs.

### **Principle 10: EPFI Reporting**

Each EPFI adopting the Equator Principles is required to report publicly at least annually about its Equator Principles implementation processes and experience, taking into account appropriate confidentiality considerations.

**Table 5.2** below provides some indication on how the Hendrina Wet Ash Disposal Facility Extension EIA will endeavour to comply with the Equator Principles mentioned above

**Table 5.2:** An indication on how the Hendrina Wet Ash Disposal Facility Extension Project EIA will endeavour to comply with the Equator Principles

<b>Equator Principles Financial Institutions (EPFI) Principles</b>		
<b>Principle</b>	<b>Application</b>	<b>Compliance required for Hendrina Wet Ash Disposal Facility Extension Project</b>
Principle 1: Review and Categorisation	The EPFI will categorise the project based on the magnitude of its potential impacts and risks. According to the categorisation, the Hendrina Wet Ash Disposal Facility Extension Project is anticipated to be classified as a Category B Project i.e. projects with potential significant adverse social or environmental impacts that are diverse, irreversible or unprecedented.	As a result of being categorised as a Category B Project, Principles 2, 4, 5, 6, 7, 8 and 9 have specific application.
Principle 2: Social and Environmental Assessment	The borrower is required to conduct a: <ul style="list-style-type: none"> <li>Social and Environmental Assessment</li> </ul>	A Scoping and Environmental Impact Assessment (EIA) process is being undertaken in terms of the National Environmental Management Act (NEMA) No. 107 of 1998. Both biophysical and social specialist studies will be undertaken during the EIA
Principle 3: Applicable Social and Environmental Standards	Compliance is required with the: <ul style="list-style-type: none"> <li>IFC Performance Standards; and the</li> <li>General and Sector Specific World bank Group Environmental, Health and Safety (EHS) Guidelines.</li> </ul>	See <b>Table 5.3</b>
Principle 4: Action Plan and Management System	The following is required from the borrower: <ul style="list-style-type: none"> <li>An Action Plan; and a</li> <li>Social and Environmental Management System</li> </ul>	An Environmental Management Plan (EMP) will be compiled which content will comply with Regulations 544 and 545. This EMP will comply with the requirements of Principle 4.
Principle 5: Consultation and Disclosure	The borrower is required to: <ul style="list-style-type: none"> <li>Consult with project affected communities in a manner that ensures their free, prior and informed consultation and facilitates their informed participation;</li> <li>Make available to the public for a reasonable minimal period the Assessment documentation and the Action Plan; and</li> <li>Take account of and document the process and results of the</li> </ul>	A comprehensive Public Participation Process will be undertaken as prescribed by Regulations 544 and 545. A detailed record of all comments received and responses will be kept in the form of a Comment and Response Report which will form part of the Environmental Impact Assessment Report. All comments will be taken

<b>Equator Principles Financial Institutions (EPFI) Principles</b>		
<b>Principle</b>	<b>Application</b>	<b>Compliance required for Hendrina Wet Ash Disposal Facility Extension Project</b>
	consultation.	into consideration during the EIA.
Principle 6: Grievance Mechanism	<p>The borrower is required to:</p> <ul style="list-style-type: none"> <li>• Ensure that consultation, disclosure and community engagement continues throughout the construction and operation of the project;</li> <li>• Establish a grievance mechanism as part of the management system; and</li> <li>• Inform the affected communities about the mechanism in the course of its community engagement process and ensure that the mechanism is readily accessible to all segments of the affected communities and that it addresses concerns promptly and transparently</li> </ul>	<p>This will be done during the Public Participation Process which will be in accordance with NEMA and the EIA Regulations 544 and 545. The EMP for this Project will also include recommendations regarding communication and grievance procedures during both the construction and operational phases.</p>
Principle 7: Independent Review	<p>An independent social or environmental expert is required to review the:</p> <ul style="list-style-type: none"> <li>• Social and Environmental Assessment;</li> <li>• Action Plan; and</li> <li>• Consultation process documentation</li> </ul>	<p>In terms of NEMA EIA Regulations the EIA is required to be undertaken by an independent Environmental assessment practitioner. This Project also makes use of independent public participation input as well as independent specialists. An independent legal and process review will also be undertaken throughout the EIA process. All EIA documentation is reviewed by the competent authority (DEA) before an environmental authorisation is issued.</p>
Principle 8: Covenants	<p>The borrower is required to do the following:</p> <ul style="list-style-type: none"> <li>• comply with all relevant host country social and environmental laws, regulations and permits in all material respects;</li> <li>• comply with the Action Plan (where applicable) during the construction and operation of the project in all material respects;</li> <li>• to provide periodic reports in a format agreed with EPFIs (with the frequency of these reports proportionate to the severity of impacts, or</li> </ul>	<p>The relevant legislation will be highlighted and taken into consideration during the EIA. The EMP to be compiled for this Project will include monitoring and compliance criteria. These will include internal and external audit requirements.</p>

<b>Equator Principles Financial Institutions (EPFI) Principles</b>		
<b>Principle</b>	<b>Application</b>	<b>Compliance required for Hendrina Wet Ash Disposal Facility Extension Project</b>
	<p>as required by law, but not less than annually), prepared by in-house staff or third party experts, that i) document compliance with the AP (where applicable), and ii) provide representation of compliance with relevant local, state and host country social and environmental laws, regulations and permits; and</p> <ul style="list-style-type: none"> <li>to decommission the facilities, where applicable and appropriate, in accordance with an agreed decommissioning plan.</li> </ul>	
Principle 9: Independent Monitoring and Reporting	<p>The EPFIs will require appointment of:</p> <ul style="list-style-type: none"> <li>an independent environmental and or social expert; or</li> <li>retain qualified and experienced external experts to verify its monitoring information which would be shared with EPFIs</li> </ul>	An independent environmental assessment practitioner (EAP) has been appointed.
Principle 10: EPFI Reporting	Each EPFI adopting the Equator Principles is required to report publicly at least annually about its Equator Principles implementation processes and experience, taking into account appropriate confidentiality considerations.	This will be required to be dealt with by the client in their own capacity. The EMP will make recommendations in this regard.

## **5.5. International Finance Corporation (IFC) Performance Standards on Social and Environmental Sustainability**

The International Finance Corporation (IFC) applies the Performance Standards to manage social and environmental risks and impacts and to enhance development opportunities in its private sector financing in its member countries eligible for financing. The Performance Standards may also be applied by other financial institutions electing to apply them to projects in emerging markets. Together, the eight Performance Standards establish standards that the client is to meet throughout the life of an investment by IFC or other relevant financial institution:

### **Performance Standard 1: Social and Environmental Assessment and Management System**

This Performance Standard underscores the importance of managing social and environmental performance throughout the life of a project. This Performance Standard applies to projects with social or environmental risks and impacts that should be managed, in the early stages of project development, and on an ongoing basis. Objectives include:

- To identify and assess social and environment impacts, both adverse and beneficial, in the project's area of influence;
- To avoid, or where avoidance is not possible, minimize, mitigate, or compensate for adverse impacts on workers, affected communities, and the environment;
- To ensure that affected communities are appropriately engaged on issues that could potentially affect them; and
- To promote improved social and environment performance of companies through the effective use of management systems

### **Performance Standard 2: Labour and Working Conditions**

Performance Standard 2 recognizes that the pursuit of economic growth through employment creation and income generation should be balanced with protection for basic rights of workers. Objectives include:

- To establish, maintain and improve the worker-management relationship;
- To promote the fair treatment, non-discrimination and equal opportunity of workers, and compliance with national labour and employment laws;
- To protect the workforce by addressing child labour and forced labour; and
- To promote safe and healthy working conditions, and to protect and promote the health of workers

### **Performance Standard 3: Pollution Prevention and Abatement**

Performance Standard 3 recognizes that increased industrial activity and urbanization often generate increased levels of pollution to air, water, and land that may threaten people and the environment at the local, regional, and global level. Objectives include:

- To avoid or minimize adverse impacts on human health and the environment by avoiding or minimizing pollution from project activities
- To promote the reduction of emissions that contribute to climate change

### **Performance Standard 4: Community Health, Safety and Security**

Performance Standard 4 recognizes that project activities, equipment, and infrastructure often bring benefits to communities including employment, services, and opportunities for economic development. However, projects can also increase the potential for community exposure to risks and impacts arising from equipment accidents, structural failures, and releases of hazardous materials. Objectives include:

- To avoid or minimize risks to and impacts on the health and safety of the local community during the project life cycle from both routine and non-routine circumstances
- To ensure that the safeguarding of personnel and property is carried out in a legitimate manner that avoids or minimizes risks to the community's safety and security

### **Performance Standard 5: Land Acquisition and Involuntary Resettlement**

Involuntary resettlement refers both to physical displacement (relocation or loss of shelter) and to economic displacement (loss of assets or access to assets that leads to loss of income sources or means of livelihood) as a result of project-related land acquisition. Resettlement is considered involuntary when affected individuals or communities do not have the right to refuse land acquisition that result in displacement. Objectives include:

- To avoid or at least minimize involuntary resettlement wherever feasible by exploring alternative project designs;
- To mitigate adverse social and economic impacts from land acquisition or restrictions on affected persons' use of land by: (i) providing compensation for loss of assets at replacement cost; and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected;
- To improve or at least restore the livelihoods and standards of living of displaced persons; and

- To improve living conditions among displaced persons through provision of adequate housing with security of tenure<sup>4</sup> at resettlement sites.

### **Performance Standard 6: Biodiversity Conservation and Sustainable Natural Resource Management**

Performance Standard 6 recognizes that protecting and conserving biodiversity—the variety of life in all its forms, including genetic, species and ecosystem diversity—and its ability to change and evolve, is fundamental to sustainable development. Objectives include:

- To protect and conserve biodiversity; and
- To promote the sustainable management and use of natural resources through the adoption of practices that integrate conservation needs and development priorities.

### **Performance Standard 7: Indigenous Peoples**

Performance Standard 7 recognizes that Indigenous Peoples, as social groups with identities that are distinct from dominant groups in national societies, are often among the most marginalized and vulnerable segments of the population. Objectives include:

- To ensure that the development process fosters full respect for the dignity, human rights, aspirations, cultures and natural resource-based livelihoods of Indigenous Peoples
- To avoid adverse impacts of projects on communities of Indigenous Peoples, or when avoidance is not feasible, to minimize, mitigate, or compensate for such impacts, and to provide opportunities for development benefits, in a culturally appropriate manner
- To establish and maintain an ongoing relationship with the Indigenous Peoples affected by a project throughout the life of the project
- To foster good faith negotiation with and informed participation of Indigenous Peoples when projects are to be located on traditional or customary lands under use by the Indigenous Peoples
- To respect and preserve the culture, knowledge and practices of Indigenous Peoples

### **Performance Standard 8: Cultural Heritage**

Performance Standard 8 recognizes the importance of cultural heritage for current and future generations. Consistent with the Convention Concerning the Protection of the World Cultural and Natural Heritage, this Performance Standard aims to protect irreplaceable cultural heritage and to guide clients on protecting cultural heritage in the course of their business operations. In addition, the requirements of this Performance Standard on a

project's use of cultural heritage are based in part on standards set by the Convention on Biological Diversity. Objectives include:

- To protect cultural heritage from the adverse impacts of project activities and support its preservation
- To promote the equitable sharing of benefits from the use of cultural heritage in business activities

**Table 5.3** below provides some indication on how the Hendrina Wet Ash Disposal Facility Extension Project EIA will endeavour comply with the Performance standards mentioned above.

**Table 5.3:** An indication on how the Hendrina Wet Ash Disposal Facility Extension Project EIA will endeavour comply with the IFC Performance standards

<b>International Finance Corporation (IFC) Performance Standards on Social and Environmental Sustainability</b>		
<b>Performance Standard</b>	<b>Objectives</b>	<b>Compliance with regards to the Hendrina Wet Ash Disposal Facility Extension Project</b>
1. Social and Environmental Assessment and Management System	<ul style="list-style-type: none"> <li>To identify and assess social and environment impacts, both adverse and beneficial, in the project's area of influence;</li> <li>To avoid, or where avoidance is not possible, minimize, mitigate, or compensate for adverse impacts on workers, affected communities, and the environment;</li> <li>To ensure that affected communities are appropriately engaged on issues that could potentially affect them; and</li> <li>To promote improved social and environment performance of companies through the effective use of management systems</li> </ul>	These objectives will be met through the Scoping and Environmental Impact Assessment (EIA) process being undertaken in terms of the National Environmental Management Act (NEMA) No. 107 of 1998. Issues regarding management systems will be included in the EMP for the client's future implementation.
2. Labour and Working Conditions	<ul style="list-style-type: none"> <li>To establish, maintain and improve the worker-management relationship;</li> <li>To promote the fair treatment, non-discrimination and equal opportunity of workers, and compliance with national labour and employment laws;</li> <li>To protect the workforce by addressing child labour and forced labour; and</li> <li>To promote safe and healthy working conditions, and to protect and promote the health of workers</li> </ul>	Mitigation and management measures will be recommended in this regard through specialist studies such as the Social Impact Assessment. All measures will be included within the Environmental Management Plan. The client will need to comply with the relevant national legislation relating to labour and health and safety issues which will be referred to within the EMP.
3. Pollution Prevention and Abatement	<ul style="list-style-type: none"> <li>To avoid or minimize adverse impacts on human health and the environment by avoiding or minimizing pollution from project activities</li> <li>To promote the reduction of emissions that contribute to climate change</li> </ul>	Mitigation and management measures will be recommended in this regard through specialist studies such as the Air Quality, surface water and ground water impact assessments. All measures will be included within the Environmental Management Plan
4. Community Health, Safety and Security	<ul style="list-style-type: none"> <li>To avoid or minimize risks to and impacts on the health and safety of the local community during the project life cycle from</li> </ul>	Mitigation and management measures will be recommended in this regard through specialist

<b>International Finance Corporation (IFC) Performance Standards on Social and Environmental Sustainability</b>		
<b>Performance Standard</b>	<b>Objectives</b>	<b>Compliance with regards to the Hendrina Wet Ash Disposal Facility Extension Project</b>
	<p>both routine and non-routine circumstances</p> <ul style="list-style-type: none"> <li>To ensure that the safeguarding of personnel and property is carried out in a legitimate manner that avoids or minimizes risks to the community's safety and security</li> </ul>	<p>studies. All measures will be included within the Environmental Management Plan</p>
5. Land Acquisition and Involuntary Resettlement	<ul style="list-style-type: none"> <li>To avoid or at least minimize involuntary resettlement wherever feasible by exploring alternative project designs;</li> <li>To mitigate adverse social and economic impacts from land acquisition or restrictions on affected persons' use of land by: (i) providing compensation for loss of assets at replacement cost; and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected;</li> <li>To improve or at least restore the livelihoods and standards of living of displaced persons; and</li> <li>To improve living conditions among displaced persons through provision of adequate housing with security of tenure<sup>4</sup> at resettlement sites.</li> </ul>	<p>Mitigation and management measures will be recommended in this regard through specialist studies such as the Social Impact Assessment. All measures will be included within the Environmental Management Plan</p>
6. Biodiversity Conservation and Sustainable Natural Resource Management	<ul style="list-style-type: none"> <li>To protect and conserve biodiversity; and</li> <li>To promote the sustainable management and use of natural resources through the adoption of practices that integrate conservation needs and development priorities.</li> </ul>	<p>Mitigation and management measures will be recommended in this regard through specialist studies such as the Fauna, flora, aquatic fauna and flora, surface water, ground water and avifauna studies. All measures will be included within the Environmental Management Plan</p>
7. Indigenous Peoples	<ul style="list-style-type: none"> <li>To ensure that the development process fosters full respect for the dignity, human rights, aspirations, cultures and natural resource-based livelihoods of Indigenous Peoples</li> <li>To avoid adverse impacts of projects on communities of Indigenous Peoples, or when avoidance is not feasible, to</li> </ul>	<p>Mitigation and management measures will be recommended in this regard through specialist studies such as the Social Impact Assessment. All measures will be included within the Environmental Management Plan.</p>

<b>International Finance Corporation (IFC) Performance Standards on Social and Environmental Sustainability</b>		
<b>Performance Standard</b>	<b>Objectives</b>	<b>Compliance with regards to the Hendrina Wet Ash Disposal Facility Extension Project</b>
	<p>minimize, mitigate, or compensate for such impacts , and to provide opportunities for development benefits, in a culturally appropriate manner</p> <ul style="list-style-type: none"> <li>• To establish and maintain an ongoing relationship with the Indigenous Peoples affected by a project throughout the life of the project</li> <li>• To foster good faith negotiation with and informed participation of Indigenous Peoples when projects are to be located on traditional or customary lands under use by the Indigenous Peoples</li> <li>• To respect and preserve the culture, knowledge and practices of Indigenous Peoples</li> </ul>	<p>The public participation process will also ensure that indigenous people are involved and consulted throughout the process in order to ensure that their issues and concerns are recorded and considered.</p>
8. Cultural Heritage	<ul style="list-style-type: none"> <li>• To protect cultural heritage from the adverse impacts of project activities and support its preservation</li> <li>• To promote the equitable sharing of benefits from the use of cultural heritage in business activities</li> </ul>	<p>Mitigation and management measures will be recommended in this regard through specialist studies such as the Heritage Impact Assessment. All measures will be included within the Environmental Management Plan</p>