



## COMMENTS AND RESPONSES REPORT

### PROPOSED BLANCO-DROERIVIER 400KV TRANSMISSION LINE, AND SUBSTATION UPGRADE IN THE WESTERN CAPE PROVINCE

#### PUBLIC PARTICIPATION PROCESS

FEBRUARY 2017

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<b>1. ISSUES AND COMMENTS FROM ORGANS OF STATE</b>			
1.1	<p><b>This Department has the following comments on the abovementioned application:</b></p> <ul style="list-style-type: none"> <li>i. Please include the Start, Middle and End point coordinates for the power line in the final SR.</li> <li>ii. Please ensure that all relevant listed activities are applied for in the application form and reports, are specific and that it can be linked to the development activity or infrastructure as described in the project description. This Department has also noted the frequent use of the word "may" when describing the project activity that triggers the listed activities applied for. The use of the word "may" will result in this Department concluding that the EAP is not confident and/or uncertain as to why the listed activities applied for are being triggered by the proposed activity. You are there for requested to amend the application form and rephrase all project activity descriptions and also to refrain from the use of the word "may".</li> <li>iii. If the activities applied for in the application form differ from those mentioned in the final SR, an amended application form must be submitted. Please note that the Department's application form template has been amended and can be downloaded from the following link <a href="https://lwww.environment.gov.za/documents/forms">https://lwww.environment.gov.za/documents/forms</a>.</li> <li>iv. Please ensure that the application form is signed by the applicant and that a signed land owner's notification form is submitted to this Department.</li> <li>v. The final SR must investigate and identify all traffic impacts</li> </ul>	<p>Ms Portia Makitla</p> <p>DEA case officer</p> <p>Sent via an official letter 02/02/2017</p>	<p><b>This Department has the following comments on the abovementioned application:</b></p> <ul style="list-style-type: none"> <li>i. Comment is noted, Start, Middle and End point coordinates for the power line alternatives are in the final SR under Chapter 2 (section 2.1-project locality).</li> <li>ii. The application form has been amended accordingly and a an amended application is submitted together with this FSR (refer to copy attached in Appendix 2 of this report)</li> <li>iii. Activities applied for in the application form <u>do not</u> differ from those mentioned in the final SR.</li> <li>iv. Comment is noted regarding the applicant signing the application form however regarding the landowner consent it must be noted that this is a linear and according to the 2014 EIA application form this is not required.</li> <li>v. During construction, the project will inevitably result in disruption of traffic on local, regional and National Roads, but to varying degrees. The severity of the impacts will depend on the order of the road (how many lanes, width, length, turns, etc), the receiving environment and vicinity of land uses and towns. A Traffic Study was conducted in the previous EIA phase, it was concluded that Meiringspoort is the main problem area and vehicles carrying abnormal loads should be avoided at all cost. Regular flooding during rainy seasons (winter months) will impact on any vehicles transporting material to the sites for the construction of the Alternative 1 alignment. Meiringspoort furthermore has narrow river passages with a winding road that would make</li> </ul>

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	<p>associated with the proposed development.</p> <p>vi. Please ensure that all issues raised and comments received during the circulation of the SR from registered I&amp;APs and organs of state which have jurisdiction (including this Department's Biodiversity Section) in respect of the proposed activity are adequately addressed in the Final SR. Proof of correspondence with the various stakeholders must be included in the Final SR. Should you be unable to obtain comments, proof should be submitted to the Department of the attempts that were made to obtain comments. The Public Participation Process must be conducted in terms of Regulation 39, 40 41, 42, 43 &amp; 44 of the EIA Regulations 2014.</p> <p>vii. Should in-house specialists be used for any specialist study, the specialist study must be peer reviewed by external specialists.</p> <p>viii. In terms of Appendix 2 of the EIA Regulations, 2014, the report must include an undertaking under oath or affirmation by the EAP in relation to:</p> <ol style="list-style-type: none"> <li>the correctness of the information provided in the reports;</li> <li>the inclusion of comments and inputs from stakeholders and I&amp;APs;</li> <li>the inclusion of inputs and recommendations from the specialist reports where relevant;</li> <li>any information provided by the EAP to interested and affected parties and</li> <li>responses by the EAP to comments or inputs made by interested or affected parties.</li> </ol> <p>ix. In accordance with Appendix 2 of the EIA Regulations 2014,</p>		<p>it impossible for heavy vehicles to transport materials on without impacting on traffic flow. Alternative 2 would avoid this problem, but in the northern section (where it turns away from the N9 and passes Willowmore and Rietbron) the roads are mostly farm roads and not designed for heavy vehicles. The full assessment for traffic impact will form part of the EIA phase report.</p> <p>vi. All issues raised and comments received during the review of the DSR from registered I&amp;APs and organs of state are addressed in this Final SR and forms part of the Comment and Response Report in Appendix 4.2 (Appendi J) and as part of <u>Addendum to Appendix 4.2</u> (Appendix D).</p> <p>vii. The Land Use Report (Appendix 4.7) was the only report written in-house, this was externally reviewed by Nadia Botha of Metro Concepts Pty (Ltd).</p> <p>viii. An EAP affirmation is attached to this report as Appendix 6.2 in accordance with Appendix 2 of the EIA Regulations, 2014.</p> <p>ix. The eexpertise of the EAP to carry out Scoping procedures can be found in section 1.4.3 of the FSR. In addition EAP CVs are attached in Appendix 6.2 of this report.</p> <p>x. A compliance checklist based on the Environmental Impact Assessment Regulations, 2014 (Appendix 2), in included in the executive summary of this FSR and cross references each section of the report to the relevant requirement for a SR.</p> <p>xi. Comment noted, no response required.</p>

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	<p>the details of-</p> <ul style="list-style-type: none"> <li>a. the EAP who prepared the report; and</li> <li>b. the expertise of the EAP to carry out Scoping and Environmental Impact assessment procedures; must be submitted.</li> </ul> <p>x. You are further reminded that the final SR to be submitted to this Department must comply with all the requirements in terms of the scope of assessment and content of scoping reports in accordance with Appendix 2 and Regulation 21(1) of the EIA Regulations, 2014.</p> <p>xi. Further note that in terms of Regulation 45 of the EIA Regulations 2014, this application will lapse if the applicant fails to meet any of the timeframes prescribed in terms of the these Regulations, unless an extension has been granted in terms of Regulation 3(7). You are hereby reminded of Section 24F of the National Environmental Management Act, Act No 107 of 1998, as amended, that no activity may commence prior to an environmental authorisation being granted by the Department.</p>		
1.2	<ol style="list-style-type: none"> <li>1. The abovementioned document received by this Department on 12 January 2017 refers.</li> <li>2. This letter serves as an acknowledgment of receipt of the abovementioned document by the Directorate: Development Management (Region 3) of this Department.</li> <li>3. This Department has reviewed the abovementioned document and the comment (Ref: 16/ 3/ 3/ 6/ 4/ 2/ 1/ 02/ 6/ 0098/ 15) dated 22 February 2016 on the Final Scoping Report for the previous Environmental Impact Assessment process still</li> </ol>	<p>Ms Shireen Pullen</p> <p>Western Cape Government: Department of Environmental Affairs and Development Planning</p> <p>Sent via E-mail:</p>	<p>Comment noted, no response required.</p>

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	<p>stands and all the issues raised remains valid.</p> <p>4. Kindly quote the abovementioned reference number in any future correspondence in respect of the application. This Department reserves the right to revise its initial comments and request further information from you based on any new or revised information received.</p>	07/02/2017	
1.3	<p>Your e-mail dated 10 March 2017 requesting this Department to submit comment to you refers.</p> <p>Our comments remain the same as those previously submitted on for the Draft Scoping Report and Draft Environmental Impact reports dated 19th May and 14th September 2016 respectively.</p>	<p>Mr Alan Southwood</p> <p>EC Economic Development, Environmental Affairs &amp; Tourism</p>	Comment noted, no response required.
1.4	Please confirm that the content of the Final Scoping has not changed from the original one.	Sent via E-mail: 09/02/2017	This is to confirm that the content of the Final Scoping has not changed from the original one, as the previous application lapsed, we are merely restarting the process for environmental authorisation. Should new issues be raised by I&APs, these will be further investigated in the EIA phase. However this is not the case for the current scoping report.
1.4	Can you please forward me the shapefile indicating the alternative routes of the proposed 400kV power line.	<p>Ms Shanè October</p> <p>Eastern Cape Park and Tourism Affairs (ECPTA): Environmental Planner</p> <p>Sent via E-mail: 06/02/2017</p>	Please find attached shpfiles and kmz files as per your request below.
1.5	Could you please refer all correspondence to the Acting Deputy Director : Clinton Peterson for his attention at	Ms Corlize Bester	Noted, thank you Corlize.

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	clinton@george.org.za.	George LM  Sent via E-mail: 13/01/2017	
1.6	Please find the attached comment from CapeNature concerning the proposed construction of a 440 kV main transmission powerline from Narina to Droerivier substations. CapeNature strongly objects to the implementation of Alternative 1; and now recommends that Alternative 2 be further scoped with the relevant detailed assessments.	Mr Benjamin Walton  Cape Nature: Land Use Advice and Scientific Services  Sent via E-mail: 10/02/2017	Your comment is noted, your recommendation of the reconsideration of Alternative 2 will be given to both Eskom and the specialist for considering in the EIA phase of this project.
1.7	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.	Ms Jacoline Mans  DAFF (Northern Cape): Chief Forester  Sent via E-mail: 20/01/2017	Thanks Jacoline, We will update our database with the relevant officials then.
1.8	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.	Ms Corlize Bester  George LM  Sent via E-mail: 13/01/2017	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

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			<p>from 11 January 2017 – 10 February 2017. You are invited to review the report at one of the following links:</p> <p><u>Blanco to droerivier:</u></p> <ul style="list-style-type: none"> <li>i. <a href="https://www.dropbox.com/sh/sn8au7hcq2aolzd/AACpYj9M6lINX3Un_LvJ4uM1a?dl=0">https://www.dropbox.com/sh/sn8au7hcq2aolzd/AACpYj9M6lINX3Un_LvJ4uM1a?dl=0</a></li> <li>ii. <a href="https://www.envirolution.co.za/index.php/public-participation/category/33-draft-scoping-report-gourikwa-toblanco">https://www.envirolution.co.za/index.php/public-participation/category/33-draft-scoping-report-gourikwa-toblanco</a></li> </ul> <p><u>Gourikwa to Blanco</u></p> <ul style="list-style-type: none"> <li>i. <a href="https://www.envirolution.co.za/index.php/public-participation/category/34-blanco-to-droerivier-400kvtransmission-line">https://www.envirolution.co.za/index.php/public-participation/category/34-blanco-to-droerivier-400kvtransmission-line</a></li> <li>ii. <a href="https://www.dropbox.com/sh/qkizvn590z43qax/AADtKtOGNmdTbzDPXFQN5seta?dl=0">https://www.dropbox.com/sh/qkizvn590z43qax/AADtKtOGNmdTbzDPXFQN5seta?dl=0</a></li> </ul> <p>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</p>
1.9	<ul style="list-style-type: none"> <li>i. Please communicate directly with our Western Cape and Eastern Cape Regional Offices?</li> <li>ii. Their details are on our website. Ask for the Mineral Law Officers concerned.</li> <li>iii. Yes you may remove my name from those records.</li> </ul>	<p>Mr Andre Eagar</p> <p>Department of Mineral Resources: Communications Directorate</p> <p>Sent via E-mail: 06/02/2017</p>	<ul style="list-style-type: none"> <li>i. Please can you assist me the relevant contact person details in this regard so we can include them in our database.</li> <li>ii. 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.</li> <li>iii. Comment noted no further response required, database updated with relevant authorities contact details.</li> </ul>
1.10	<p>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&amp;AP for the Eden District Municipality for commenting on all future projects.</p>	<p>Ms Nina Viljoen</p> <p>Eden District Municipality: Specialist: Environmental</p>	<p>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.</p> <p><u>Gourikwa to Blanco</u></p> <ul style="list-style-type: none"> <li>• <a href="https://www.dropbox.com/sh/sn8au7hcq2aolzd/AACpYj9M6lINX3Un_LvJ4uM1a?dl=0">https://www.dropbox.com/sh/sn8au7hcq2aolzd/AACpYj9M6lINX3Un_LvJ4uM1a?dl=0</a></li> </ul>

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		Management Sent via E-mail: 24/01/2017	<u>Blanco to Droerivier:</u> <ul style="list-style-type: none"> <li>• <a href="https://www.dropbox.com/sh/qkizvn590z43qax/AADtKtOGNmdTbzDPXFQN5seta?dl=0">https://www.dropbox.com/sh/qkizvn590z43qax/AADtKtOGNmdTbzDPXFQN5seta?dl=0</a></li> </ul>
1.11	<p>The Eden District Municipality would like to thank you for providing th is 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:</p> <ul style="list-style-type: none"> <li>• The Eden District Municipality recognises the high positive impact on the regional economy and the resultant socio-economic benefits to be achieved through these projects.</li> <li>• The Municipality therefore has no objection to the proposed development provided that: <ul style="list-style-type: none"> <li>◦ The proposed mitigation measures as indicated in the Scoping Reports be adhered to.</li> </ul> </li> <li>• The Eden District Municipality reserves the right to provide comment or to amend initial comments.</li> </ul>		<p>Dear Nina,</p> <p>Your comments on these projects have been received, thank you for your valuable inputs.</p> <p>We will keep you informed of the progress as we proceed.</p>
1.12	<p>Dear Andrew and Zwelibanzi</p> <p>I need your advice, Envirolution has just contacted me to tell me that the EIA process for the above powerlineshas lapsed, and they will need to re-submit the HIA reports for both powerlines to HWC for comment.</p> <p>As you know, the Blanco-Droerivier powerlines report was assessed by the IACom in October 2016, and the final comment is dated November 2016.</p> <p>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).</p> <p><u>The two projects have not changed at all.</u></p>	<p>Mr Andrew September</p> <p>Heritage Western Cape: Heritage Case Officer</p> <p>Sent via E-mail: 18/01/2017</p>	<p>Comment noted, no response required. <b>NB: comment that the Heritage Western Cape is referring to here is only relevant to the EIA phase of this project as no comments were made in the Scoping phase of the project as such these comments will form part of the EIA report.</b></p>



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	<p>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?</p> <p>Regards Dr Lita Webley <b>ACO Associates (Heritage specialist)</b></p> <p>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.</p>		
1.13	Please note that I have tried to download the document from your website but I was unsuccessful.	<p>Ms Mapaseka Lukhele</p> <p>Transnet Corporate JHB</p> <p>Sent via E-mail: 12/01/2017</p>	<p>Please try either of the links 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.</p> <ul style="list-style-type: none"> <li>• <a href="https://www.dropbox.com/sh/sn8au7hcq2aolzd/AACpYj9M6lINX3Un_LvJ4uM1a?dl=0">https://www.dropbox.com/sh/sn8au7hcq2aolzd/AACpYj9M6lINX3Un_LvJ4uM1a?dl=0</a></li> <li>• <a href="https://www.envirolution.co.za/index.php/public-participation/category/33-draft-scoping-report-gourikwa-toblanco">https://www.envirolution.co.za/index.php/public-participation/category/33-draft-scoping-report-gourikwa-toblanco</a></li> </ul>
<b>2. ISSUES AND COMMENTS FROM I&amp;APS</b>			
2.1	Herewith info as previously sent. Nothing has changed.	<p>Mr Eric Teixeira</p> <p>Landowner</p> <p>Sent via E-mail: 26/01/2016</p>	Thank you, this is noted.
2.2	<b>Telecon:</b> Kindly confirm if Farm Gwerna and Kykoe will be affected by the proposed power line, also please can I get hold of the	Mr Kruger	As per our earlier telephonic discussions, I can confirm that farm Gwerna and Kykoe are affected by alternative 2 of the

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	reports.	Landowner  Sent via E-mail: 26/01/2016	power line for Blanco-Droerivier that is currently being invested in this EIA process. Below is the link to the DSR reports. <ul style="list-style-type: none"> <li>• <a href="https://www.envirolution.co.za/index.php/public-participation/category/34-blanco-to-droerivier-400kvtransmission-line">https://www.envirolution.co.za/index.php/public-participation/category/34-blanco-to-droerivier-400kvtransmission-line</a></li> <li>• <a href="https://www.dropbox.com/sh/qkizvn590z43qax/AADtKtOGNmdTbzDPXFQN5seta?dl=0">https://www.dropbox.com/sh/qkizvn590z43qax/AADtKtOGNmdTbzDPXFQN5seta?dl=0</a></li> </ul> Should you have any comments or queries, please feel contact me directly.
2.3	<p><b>1</b> We act on behalf of Geelhoutboom Estate (Pty) Ltd (Registration Number 2004/009498/07) (the 'Client').</p> <p><b>2</b> 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><b>3</b> 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><b>4</b> 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><b>5</b> 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>ANDRE SWART</p> <p>Attorney, Notary and Conveyancer (on behalf of Geelhoutboom Estate (Pty) Ltd – Landowner</p> <p>Sent via E-mail: 13/02/2017</p>	Thank you for these comments (point 1-5), they are noted.
	<b>6</b> 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.		Comment noted
	<b>7</b> 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		Comment noted

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	Management Act No 107 of 1998 (the NEMA) and the EIA Regulations.		
	<p><b>8</b> 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><b>9</b> 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><b>10</b> 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>		Comments 8-10 are noted.
	<b>11</b> 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.		Comment noted
	<p><b>12</b> Below we will deal with:</p> <p><b>12.1 The context of the Eskom Environmental Applications and the fragmentation thereof;</b></p> <p><b>12.2 Legislative Scheme:</b></p> <p>12.2.1 Planning Legislation;</p> <p>12.2.2 NEMA;</p> <p>12.2.3 EIA Regulations.</p> <p><b>12.3 Non-compliance with the NEMA:</b></p> <p>12.3.1 Lack of Information;</p>		Comment noted

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	12.3.2 Alternatives; 12.3.3 Need and Desirability. <b>12.4 Vested Rights</b>		
	<b>13</b> 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.		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.
	<b>14</b> 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.		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 <b>is granted</b> (this is not incorrect and misleading); however it is acknowledge that appeal is pending on that application.

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	<b>15</b> 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.		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 Droërvier 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.
	<b>16</b> 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>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). <b>In summary:</b> 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 Droërvier Substation forms part of Eskom's West Grid and the Southern Cape CLN.</p>
	<b>17</b> 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.		Comment noted
	<b>18</b> We will deal in more detail with the legislative scheme in the paragraphs that follow.		

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	<p><b>Planning Legislation (19-40)</b></p> <p><b>19</b> 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><b>20</b> 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>
	<p><b>21</b> 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:  <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><b>22</b> Section 33(1) provides as follows:  <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><b>23</b> 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 the in the PPP document (Appendix 4.1) of the Scoping Report.</p>
	<p><b>24</b> The reason why it is of specific importance that the description of the legislative context in the Draft Environmental Reports should</p>		<p>This is a power lie project; the line crossing over the land will not require rezoning of that land. The EIA only gives Eskom a right of</p>

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	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.		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.
	<b>25</b> 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.'		Comment noted
	<b>26</b> 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.		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.
	<b>27</b> 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.  <b>28</b> 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:		Comment noted

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	'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.'		
	<b>29</b> 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.		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)
	<b>30</b> 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.'		Comment noted
	<b>31</b> It is important to note that electricity generation, transmission and distribution falls within the exclusive national competency of Government. <b>32</b> 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.		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.
	<b>33</b> 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		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.



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	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.		
	<b>34</b> Eskom will not be able to circumvent the aforementioned statutory requirements by means of expropriations.		Same as point 33 above
	<b>35</b> 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.		Same as point 33
	<b>36</b> 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.		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
	<b>37</b> 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>		Comment noted
	<b>38</b> Any planning application (i.e. rezoning, consent use or		These proposed line will not change the agricultural nature of the

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	departure application) will have to be consistent with the applicable SDFs of the municipalities with jurisdiction.		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.
	<b>40</b> 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.		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><b>NEMA - Section (Point 41-48)</b></p> <p><b>41</b> 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><b>42</b> 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><b>43</b> 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><b>44</b> 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><b>45</b> 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>		Comments 41-45 are noted

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	<p><b>46</b> 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.</i>  <i>(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>
	<p><b>47</b> 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>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><b>48</b> 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><b>EIA Regulations (Point 49-53)</b></p> <p><b>49</b> 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&amp;EIR).</p>		<p>Comment noted</p>
	<p><b>50</b> 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</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</p>

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	contents of the Draft Environmental Reports are concerned. Neither the EAP nor Eskom has responded to such complaints.		to Appendix 5.7 and 5.11 of the FEIR).
	<b>51</b> 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.'		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.
	<b>52</b> It is to be noted that the prescribed contents of scoping reports are mandatory and leave no discretion to the EAP or Eskom.		The EAP is aware of this requirement, accordingly this scoping report is aligned to the Environmental Impact Assessment Regulations, 2014 (Appendix 2).
	<b>53</b> As far as non-compliance with Item 2(e) is concerned (legislative context), we refer to what we have stated in Paragraph 19 above.		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.
	<b>Lack of Information (point 54-60)</b>  <b>54</b> 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)....'		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.
	<b>55</b> 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.		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 <a href="http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf">http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf</a>  However, extracts of the planning documents have been provided

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			in the report. Again these documents are confidential as confirmed by Eskom.
	<p><b>56</b> 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  <a href="http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf">http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf</a></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><b>57</b> 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.</i></p> <p><i>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-</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  <a href="http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf">http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf</a></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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	<i>Blanco option, a 400 kV Transmission line from Gourikwa to Blanco (which is the next closest load centre) will have to be established.'</i>		
	<b>58</b> 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>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  <a href="http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf">http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf</a></p> <p>However, extracts of the planning documents have been provided in the report. Again these documents are confidential as confirmed by Eskom.</p>
	<b>59</b> The manner in which Eskom has processed its environmental applications to date totally undermines the Public Participation Process.		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
	<b>60</b> Regulation 14(5)(a) and (b) inter alia deals with the instance where an EAP refuses or neglects to disclose material information.		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><b>Alternatives (Point 61-67)</b></p> <p><b>61</b> 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>		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.
	<b>62</b> Our Client submits that it was incumbent upon Eskom to identify		Chapter 2 of the Scoping Reports gives sufficient background

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	<p>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>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><b>63</b> 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&amp;Aps 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>
	<p><b>64</b> The fact that the Gourikwa or Droërvier 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><b>65</b> 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</p>

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			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.
	<b>66</b> 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.		Alternatives as well as “no go options are proposed and these will be further assessed in the EIA phase.
	<b>67</b> 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.		Alternatives are to be assessed in the EIA phase in line with the regulation
	<b>Need and Desirability (Point 68-74)</b>  <b>68</b> 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.		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
	<b>69</b> 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 where considered to be reasonable and feasible. Our Client submits that this is a fatal flaw to the environmental applications of Eskom.		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 <a href="http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf">http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf</a>  However, extracts of the planning documents have been provided in the report. Again these documents are confidential as confirmed by Eskom.
	<b>70</b> 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		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



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	time and is it the right place for locating the type of activity proposed by Eskom.		current constrains 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.
	<b>71</b> 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.		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.
	<b>72</b> 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.		Comment noted
	<b>73</b> 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		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.

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	proposed development, especially in the absence of material information not being included in the Draft Environmental Reports.		
	<b>74</b> 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.		Associated structures and infrastructure are described in Chapter 2 of the Scoping Reports under section 2.4 (Description of the proposed activities).
	<b>75</b> 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.		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.
	<b>76</b> 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.		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.
	<b>77</b> 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.  <b>78</b> The first units were duly constructed, infrastructure installed and the land use rights locked-in.		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.
	<b>79</b> 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		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

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	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.		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><b>80</b> 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. 25(1) <i>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></p> <p>(2) <i>Property may be expropriated only in terms of law of general application-</i></p> <p>(a) <i>for a public purpose or in the public interest; and</i></p> <p>(b) <i>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></p> <p>(3) <i>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>		Comment noted
	<p><b>81</b> 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>		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.
	<b>82</b> Our Client submits that the alignment of the power lines will		ESKOM will have to comply with all relevant rules and regulations.

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	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		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).
	<b>83</b> 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.		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.
	<b>84</b> 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.		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.
	<b>85</b> 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.		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.

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	<b>86</b> 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.		A social specialist is appointed to undertake the Social Impact Assessment (SIA) , these impact will be further assessed in the EIA phase.
	<b>87</b> 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.		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.
	<b>88</b> 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.		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.
	<b>89</b> 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
	<b>90</b> 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,

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			<p>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&amp;APs), was included in the evaluation of impacts.</p> <p>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 then aim to provide the environmental authorities with sufficient information to make an informed decision regarding the proposed project.</p>