

Appendix E: Legal Discussion

KEY NATIONAL AND PROVINCIAL ENVIRONMENTAL LEGISLATION POTENTIALLY APPLICABLE TO THE INSTALLATION OF THE PROPOSED CONCENTRATED SOLAR POWER PLANT		
STATUTES AND KEY PROVISIONS	REGULATIONS	COMMENT AND RECOMMENDED ACTIONS
<u>GENERAL ENVIRONMENTAL LEGISLATION AND THE CONSTITUTION</u>		
CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA ACT 108 OF 1996:		
<ul style="list-style-type: none"> □ Section 24 – Environmental Right □ Section 32 – Access to Information (refer to the Promotion of Access to Information Act 2 of 2000) □ Section 33 – Just Administrative Action (refer to the Promotion of Administrative Justice Act 3 of 2000) □ Section 36 – Limitation of Rights 	<p>Various regulations under the Promotion of Access to Information Act 2 of 2000</p> <p>Regulations on Fair Administrative Procedures – GN R1022 of 31 July 2002 (as amended)</p>	<p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p>
NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998 (NEMA):		
<ul style="list-style-type: none"> □ Section 2 – National Environmental Management Principles □ Sections 24 to 24I – Environmental Authorisations and related provisions 		<p>Take note.</p> <p>The amendment of the previously dichotomous legislative situation, in which two statutes (NEMA and the Environment Conservation Act – see below) provided for environmental authorisation linked to EIA, is soon to be completed.</p>

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	<p>Proposed Regulations under Section 24(5) of the National Environmental Management Act, 1998 (as amended), dated 15 January 2005.</p>	<p>The introduction of the new regime for EIA will <i>inter alia</i> be achieved through amendment to NEMA. The operationalisation of these sections depends on the promulgation of new "EIA Regulations".</p> <p>The most recent draft of the new "EIA Regulations" is dated 14 January 2005, and it is currently uncertain when the final draft of the new "EIA Regulations" will be promulgated, although mid-2006 has been mooted.</p> <p>If applications for environmental authorisation for the full range of activities associated with the project are made before the promulgation of the new "EIA Regulations" then it is most likely that the applications will be processed according to the currently applicable regime, namely that provided for in terms of the Environment Conservation Act and Regulations (see below).</p> <p>In light of the above, the project team is recommended as follows:</p> <p>Pending the submission of applications for environmental authorisation for all phases of the installation of the CSP Plant, as may be required in terms of NEMA or the ECA: monitor developments regarding the possible promulgation of the new "EIA Regulations", and consider the "listed activities" contained in the "listed activities" in the draft "EIA Regulations" of 14 January 2005 to assess whether these would add a further obligation to apply for environmental authorisation for the CSP Plant.</p> <p>A wide range of new "listed activities" are included in the draft "EIA Regulations", some of which are likely to be relevant to the installation of the CSP Plant. So as not to burden this document an analysis of these activities is not included here.</p>

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<ul style="list-style-type: none"> □ Section 34A – Offences Relating to Environmental Management Inspectors □ Section 36 – Expropriation □ Section 43 – Appeals □ Section 48 – State Bound <p>Section 50 – Repeal of Laws</p>		<p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Section 50 provides for the eventual repeal, in its entirety, of the Environment Conservation Act.</p> <p>However, Sections 21, 22 and 26 of the Environment Conservation Act, and the notices and regulations issued pursuant to sections 21 and 22 will remain in force at the of NEMA’s commencement, until the “new EIA” are promulgated and the DEAT Minister is satisfied that the regulations under Section 21 and 22 have become redundant.</p> <p>In addition, any application made in terms of section 21, 22 or 26 of the Environment Conservation Act that has been submitted but not finalised when those sections are repealed, must be finalised as if those sections had not been repealed. This will also apply to any appeal and procedures that may be relevant.</p> <p>In order to ensure continuity between the two incoming and outgoing EIA regimes, the DEAT Minister is empowered to gazette activities included in GNR 1182 (September 1997 – see below), that will remain valid until such time as a Member of an Executive Council promulgates a list of activities for that province.</p> <p>Therefore the project team is recommended to take note of these transitional provisions of NEMA in order to assess timeframes for completing applications for environmental authorisations that may be required for the CSP Plant, which environmental authorisations may not have been dealt with during the current scoping phase.</p>

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<ul style="list-style-type: none"> □ Section 51 – Savings 		<p>Anything done or deemed to have been done under a provision repealed by NEMA remains valid under NEMA (to the extent that it is not inconsistent with NEMA); and, is considered to be an action under the corresponding section of NEMA.</p> <p>Consequently, if all the required environmental authorisations for the CSP Plant are made (and potentially granted) in terms of the Environment Conservation Act then, upon the repeal of that Act by NEMA, the environmental authorisations will be considered to have been granted in terms of NEMA.</p>
ENVIRONMENT CONSERVATION ACT 73 OF 1989		
<ul style="list-style-type: none"> □ Section 19 – Prohibition of Littering □ Section 20 – Waste Management (read with section 24 – Regulations regarding Waste Management) 	<p>Identification of Matter as Waste – GN 1986 of 24 August 1990 (as amended)</p> <p>Waste Disposal Sites – GN R1196 of 8 July 1994</p> <p>Directions in terms of Section 20(5)(b) of the Environment Conservation Act 73 of 1989 – The Control and Management of General Communal and General Small Waste Disposal Sites – GN 91 of 1 February 2002</p>	<p>Take note.</p> <p>Identify all waste disposal sites, including the evaporation dam, to be established during construction.</p> <p>Determine if any waste disposal sites fall within the ambit of the “Directions in terms of Section 20(5)(b) of the Environment Conservation Act 73 of 1989 – The Control and Management of General Communal and General Small Waste Disposal Sites – GN 91 of 1 February 2002”.</p> <p>If not, ensure they are permitted or exempted in terms of section 20 of the ECA.</p>

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<p>□ Section 21 – Identification of Activities which will probably have a Detrimental Effect on the Environment</p>	<p>□ GN R1182 of 5 September 1997 (as amended)</p>	<p>Identify all specific “listed activities” under GN R1182 of 5 September 1997 (as amended) associated with the construction and operation of the project. Without intending to be comprehensive, note in particular the following listed activities:</p> <p>Listed Activity 1(a): The construction, erection or upgrading of facilities for commercial electricity generation with an output of at least 10 megawatts and infrastructure for bulk supply;</p> <p>Listed Activity 1(c): The construction, erection or upgrading, with regard to any substance which is dangerous or hazardous and is controlled by national legislation, (i) infrastructure, excluding road and rail, for the transportation of any such substance; and (ii) manufacturing, storage, handling, treatment or processing facilities for any such substance.</p> <p>Listed Activity 1(d): The construction, erection or upgrading of roads, railways, airfields and associated structures.</p> <p>Listed Activity 1(g): The construction, erection or upgrading of structures associated with communication networks, including masts, towers and reflector dishes, marine telecommunication lines and cables and access roads leading to those structures, but not including above ground and underground telecommunication lines and cables, and those reflector dishes used exclusively for domestic purposes.</p> <p>Listed Activity 1(n): The construction, erection or upgrading of sewage treatment plants and associated infrastructure.</p> <p>Listed Activity 2(c): The change of land use from agricultural or zoned undetermined use or an equivalent zoning, to any other land use.</p> <p>[Listed Activity 8: The disposal of waste as defined in section 20 of the Act, excluding domestic waste, but including the establishment, expansion, upgrading or closure of facilities for all waste, ashes and building rubble.]</p>

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<ul style="list-style-type: none"> □ Section 22 – Prohibition on Undertaking of Identified Activities □ Section 25 – Regulations regarding Noise, Vibration and Shock □ Section 28A – Exemption to Persons, Local Authorities and Government Institutions from Application of certain Provisions □ Section 29 – Offences 	<p>GN R1183 of 5 September 1997 (as amended)</p> <p>GN R1184 of 5 September 1997</p> <p>Noise Control Regulations – GN R154 of 10 January 1992 (in force in certain municipal areas only)</p>	<p>Ensure that each <u>specific</u> listed activity is appropriately dealt with in the application under GN R1183 of 5 September 1997 (as amended), through the process that is followed and in the ultimate authorisation granted under section 22, or through an appropriate written exemption under section ECA: 28A.</p> <p>GN R 1183 provides for the procedures to be followed when making application for an environmental authorisation, including procedures for three distinct phases of application, i.e., application phase, scoping phase, environmental impact assessment phase. GN R 1184 provides for competent authorities empowered to grant environmental authorisations. As indicated above the current EIA regime is mooted to be finally repealed during the course of 2006.</p> <p>A preliminary-level scan of municipal areas that are subject to these Regulations, are sections of these Regulations, has indicated that no municipality in the Northern Cape Province appears to be so subject.</p> <p>However, if noise is a concern associated with construction and/or operation of the CSP Plant, then the project team is recommended to establish whether areas noise control regulations or by-laws apply in the municipal area that is determined as the location for the installation of the CSP Plant.</p> <p>Written exemptions from compliance with the provisions of GN R1183 (as amended) may be feasible for aspects of the project construction. Exemption applications must be supported with relevant information.</p> <p>Take note.</p>

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<ul style="list-style-type: none"> □ Section 31A – Powers of Minister, Competent Authority, Local Authority or Government Institution where Environment is Damaged, Endangered or Detrimentially Affected □ Section 34 – Compensation for Loss □ Section 35 – Appeal to Minister or Competent Authority □ Section 36 – Review by a Court □ Section 40 – State Bound □ Section 41A – Right to Enter Upon Land 		<p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p>
<u>LAND, SOIL, PLANTS AND ANIMALS</u>		
NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT 10 OF 2004		
<ul style="list-style-type: none"> □ Section 4 – Application of this Act □ Section 8 – Conflicts with other Legislation □ Section 9 – Norms and Standards 		<p>Take note.</p> <p>Take note.</p> <p>Take note.</p>

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<ul style="list-style-type: none"> □ Section 52 – Ecosystems that are Threatened or in Need of Protection □ Section 53 – Threatening Processes in Listed Ecosystems □ Section 56 – Listing of Species that are Threatened or in Need of National Protection □ Section 57 – Restricted Activities Involving Listed Threatened or Protected Species □ Section 65 – Restricted Activities Involving Alien Species □ Section 67 – Restricted Activities Involving Certain Alien Species Totally Prohibited □ Section 69 – Duty of Care Relating to Alien Species □ Section 70 – List of Invasive Species □ Section 71 – Restricted Activities Involving Listed Invasive Species 		<p>Take note and monitor developments.</p> <p>Take note and monitor developments.</p> <p>Take note and monitor developments.</p> <p>Take note and monitor developments.</p> <p>Take note and monitor developments if relevant.</p> <p>Take note and monitor developments if relevant.</p> <p>Take note and monitor developments if relevant.</p> <p>Take note and monitor developments if relevant.</p> <p>Take note and monitor developments if relevant.</p>

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<ul style="list-style-type: none"> □ Section 73 – Duty of Care Relating to Listed Invasive Species □ Section 75 – Control and Eradication of Listed Invasive Species □ Section 76 – Invasive Species Control Plans of Organs of State □ Chapter 7 – Permits □ Chapter 9 – Offences and Penalties 		<p>Take note and monitor developments if relevant.</p> <p>Take note and monitor developments if relevant.</p> <p>Take note and monitor developments.</p> <p>Take note.</p> <p>Take note.</p>
CONSERVATION OF AGRICULTURAL RESOURCES ACT 43 OF 1989		
<ul style="list-style-type: none"> □ Section 2 – Application of this Act □ Section 5 – Prohibition of the Spreading of Weeds □ Section 6 – Control Measures □ Section 7 – Directions □ Section 8 – Schemes 	<p>Various regulations relating to Schemes, including:</p>	<p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Establish if any regulations relating to Schemes are relevant to the project.</p>

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<ul style="list-style-type: none"> □ Section 12 – Maintenance of Soil Conservation Works and Maintenance of Certain States of Affairs □ Section 13 – Minister may order Payment of Certain Amounts □ Section 19 – Erection and Maintenance of Beacons and Marks □ Section 20 – Powers of Executive Officer 	<p>Establishment of Bush Control Scheme – GN R1045 of 24 May 1984</p> <p>Establishment of Soil Conservation Scheme – GN R1047 of 25 May 1984</p> <p>Establishment of Weed Control Scheme – GN R1044 of 25 May 1984 Establishment of Irrigation Improvement Scheme – GN R1487 of 29 September 1995</p>	<p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p>

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<ul style="list-style-type: none"> □ Section 21 – Appeal Against Decisions or Actions □ Section 22 – Secrecy □ Section 24 – Presumptions and Evidence □ Section 25 – Liability of Employer or Principal □ Section 29 – Regulations 	<p>General Regulations – GN R1048 of 25 May 1984 (as amended), including:</p> <p>Part I: Control Measures</p> <p>Part II: Weeds and Invader Plants</p> <p>Part III: Directions</p> <p>Part IV: Conservation Committees</p> <p>Part V: Beacons and Marks</p> <p>Part VI: Appeals</p>	<p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p>

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<ul style="list-style-type: none"> □ Section 53 – Content of Regulations □ Chapter 7 – Offences and Penalties □ Chapter 8 – Enforcement □ Section 74 – Savings 	<p>Fire Protection Committees – GN R2121 of 16 November 1973 (as amended)</p> <p>General Regulations – GN R602 of 27 March 1986 (as amended)</p>	<p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note and establish if relevant to the project.</p> <p>If relevant, take note of provisions of GN R602 dealing with <i>inter alia</i> control over state forests (including clearing of land situated in State Forests and servitudes or rights to State Forests)</p>
<u>WATER RESOURCES AND WATER SERVICES</u>		
NATIONAL WATER ACT 36 OF 1998		
<ul style="list-style-type: none"> □ Section 4 – Entitlement to Use Water □ Section 5 – Establishment of a National Water Resource Strategy □ 	<p>Establishment of the Water Management Areas and Their Boundaries as a Component of the National Water Resource Strategy – GN 1160 of 1 October 1999</p> <p>National Water Resource Strategy First Edition, September 2004</p>	<p>Take note.</p> <p>From the level of analysis conducted for this “first phase” determination of the environmental legal context of the project it appears that all three potential sites for the undertaking of the project fall within Water Management Area No. 14: Lower Orange.</p>

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<ul style="list-style-type: none"> □ Section 30 – Security by Applicant □ Section 31 – Issue of Licence no Guarantee of Supply □ Section 39 – General Authorisations to Use Water 	<p>General Authorisations – GN R1191 of 8 October 1999, as revised by GN 399 of 26 March 2004, including:</p> <p>The taking of water from a water resource and storage of water</p> <p>Engaging in a controlled activity, irrigation of any land with waste or water containing waste generated through any industrial activity or by a waterwork</p> <p>Discharge of waste or water containing waste into a water resource through a pipe, canal, sewer or other conduit; and disposing in any manner of water which contains waste from, or which has been heated in, any industrial or power generation process.</p>	<p>Take note.</p> <p>Take note.</p> <p>Take note and establish relevance of generally authorised water uses to the construction of the project based on the identification of the specific water uses associated with such construction.</p>

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<ul style="list-style-type: none"> □ Section 40 – Application for Licence □ Section 41 – Procedure for Licence Applications □ Section 53 – Rectification of Contraventions 	<p>Disposing of waste in a manner which may detrimentally impact on a water resource</p> <p>General Authorisations – GN 398 of 26 March 2004, including:</p> <p>Impeding or diverting the flow of water in a watercourse</p> <p>Altering the bed, banks or characteristics of a watercourse</p> <p>Removing, discharging or disposing of water found underground if it is necessary for the efficient continuation of an activity or for the safety of people</p>	<p>Take note and ensure licence applications are submitted where required for undertaking water uses associated with the project.</p> <p>Take note.</p> <p>Take note.</p>

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WATER SERVICES ACT 108 OF 1997		
<ul style="list-style-type: none"> <input type="checkbox"/> Section 3 – Right of Basic Water Supply and Basic Sanitation <input type="checkbox"/> Section 4 – Conditions for Provision of Water Services <input type="checkbox"/> Section 6 – Access to Water Services through Nominated Water Services Provider <input type="checkbox"/> Section 7 – Industrial Use of Water <input type="checkbox"/> Section 8 – Approvals and Appeals <input type="checkbox"/> Chapter II – Standards and Tariffs <input type="checkbox"/> <input type="checkbox"/> Chapter III – Water Services Authorities 	<p>Regulations Relating to Compulsory National Standards and Measures to Conserve Water – GN R509 of 8 June 2001</p> <p>Forms and Standards in respect of Tariffs for Water Services – GN R652 of 20 July 2001</p>	<p>Take note.</p> <p>Take note.</p> <p>Take note and ensure compliance.</p> <p>Take note and ensure compliance.</p> <p>Take note.</p> <p>Take note where relevant.</p> <p>Take note.</p>

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<ul style="list-style-type: none"> <input type="checkbox"/> Chapter IV – Water Services Providers <input type="checkbox"/> Chapter V – Water Services Intermediaries <input type="checkbox"/> Chapter VI – Water Boards <input type="checkbox"/> Chapter XI – General Powers of the Minister <input type="checkbox"/> Chapter XII – General Provisions 	<ul style="list-style-type: none"> <input type="checkbox"/> Water Services Provider Contract Regulations – GN R980 of 19 July 2002 	<p>Take note.</p> <p>Take note if relevant.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p>

HERITAGE RESOURCES

NATIONAL HERITAGE RESOURCES ACT 25 OF 1989

<ul style="list-style-type: none"> <input type="checkbox"/> Section 3 – National Estate <input type="checkbox"/> Section 4 – Application <input type="checkbox"/> Section 5 – General Principles for Heritage Resources Management <input type="checkbox"/> Section 6 – Principles for Management of Heritage Resources <input type="checkbox"/> Section 25 – General Powers and Duties of Heritage Resources Auth. 	<p>General Regulations – GN R548 of 2 June 2000, incl.:</p>	<p>Take note.</p> <p>Take note.</p> <p>Take note.</p>
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	<p>Chapter II - Permit applications (section 48(1)) and general provisions for permit applications.</p> <p>Chapter III - Application for permit: National heritage site, provincial heritage site, provisionally protected place, or structure older than 60 years (sections 27(18), 29(10) and 34(1))</p> <p>Chapter IV - Application for permit: archaeological or palaeontological site or meteorite (section 34(4))</p> <p>Chapter V - Application for permit to reproduce a national heritage site (section 27(23))</p> <p>Chapter VI - Application for Permit: Heritage Objects (sections 32(13) or 32(17))</p> <p>Chapter IX - Application for permit: Burial grounds and graves (section 36(3))</p>	

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<ul style="list-style-type: none"> □ Section 27 – National Heritage Sites and Provincial Heritage Sites □ Section 28 – Protected Areas □ Section 29 – Provisional Protection □ Section 30 – Heritage Registers □ Section 31 – Heritage Areas □ Section 32 – Heritage Objects □ Section 34 – Structures 	<p>Chapter X - Procedure for consultation regarding protected area (section 28(3))</p> <p>Chapter XI - Procedure for consultation regarding burial grounds and graves (section 36(5))</p> <p>Chapter XII - Discovery of previously unknown graves (section 36(6))</p> <p>Declaration of Types of Heritage Objects – GN 1512 of 6 December 2002</p>	<p>Take note, determine restrictions and authorisation requirements and ensure compliance where required and / or necessary for construction.</p> <p>Take note, determine restrictions and authorisation requirements and ensure compliance where required and / or necessary for construction.</p> <p>Take note, determine restrictions and authorisation requirements and ensure compliance where required and / or necessary for construction.</p> <p>Take note.</p> <p>Take note, determine restrictions and authorisation requirements and ensure compliance where required and / or necessary for construction.</p> <p>Take note, determine restrictions and authorisation requirements and ensure compliance where required and / or necessary for construction.</p> <p>Take note, determine restrictions and authorisation requirements and ensure compliance where required and / or necessary for construction.</p>

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<ul style="list-style-type: none"> □ Section 35 – Archaeology, Palaeontology and Meteorites □ Section 36 – Burial Grounds and Graves □ Section 37 – Public Monuments and Memorials □ Section 38 – Heritage Resources Management □ Section 45 – Compulsory Repair Order □ Section 48 – Permits □ Section 49 – Appeals □ Section 50 – Appointment and Powers of Heritage Inspectors □ Section 51 – Offences and Penalties □ Section 54 – By-Laws and Local Authorities □ Section 57 – Applicability of Provincial Legislation 		<p>Take note, determine restrictions and authorisation requirements and ensure compliance where required and / or necessary for construction.</p> <p>Take note, determine restrictions and authorisation requirements and ensure compliance where required and / or necessary for construction.</p> <p>Take note, determine restrictions and authorisation requirements and ensure compliance where required and / or necessary for construction.</p> <p>Take note and ensure compliance.</p> <p>Take note.</p> <p>Take note, determine restrictions and authorisation requirements and ensure compliance where required and / or necessary for construction.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note and identify any relevant by-laws.</p> <p>Refer to the relevant provincial heritage resources legislation. At the time of drafting this report no such legislation had been promulgated.</p>

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<ul style="list-style-type: none"> □ Section 58 – Transitional Provisions and Consequential Amendments □ Section 59 – Regulations 		<p>Take note.</p> <p>Take note.</p>
<u>MINING</u>		
MINERAL AND PETROLEUM RESOURCES DEVELOPMENT ACT 28 OF 2002		
<ul style="list-style-type: none"> □ Refer to Act. 	<p>Mineral and Petroleum Resources Development Regulations – GN R527 of 23 April 2004</p>	<p>Take note of the environmental provisions to the extent relevant (such as if borrow pits are required) – refer specifically to the exemption provisions of section 106 of the Act.</p>
<u>PROTECTED AREAS</u>		
NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT 57 OF 2003		
<ul style="list-style-type: none"> □ Chapter 1 – Interpretation, Objectives and Application of Act <ul style="list-style-type: none"> ❖ Section 4 – Application of this Act ❖ Section 5 – Application of National Environmental Management Act ❖ Section 6 – Application of Biodiversity Act in Protected Areas 		<p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p>

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<ul style="list-style-type: none"> ❖ Section 7 – Conflicts with other Legislation ❖ Section 8 – Status of Provincial Legislation on Provincial and Local Protected Areas □ Chapter 2 – System of Protected Areas in South Africa <ul style="list-style-type: none"> ❖ Section 9 – Kinds of Protected Areas ❖ Section 10 – Register of Protected Areas ❖ Section 11 – Norms and Standards ❖ Section 12 – Provincial Protected Areas ❖ Section 13 – World Heritage Sites ❖ Section 15 – Specially Protected Forest Areas, Forest Nature Reserves and Forest Wilderness Areas ❖ Section 16 – Mountain Catchment Areas 		<p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Determine all protected areas that are relevant to the PROJECT.</p> <p>Take note.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p>

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STATUTES AND KEY PROVISIONS	REGULATIONS	COMMENT AND RECOMMENDED ACTIONS
<ul style="list-style-type: none"> □ Chapter 3 – Declaration of Protected Areas <ul style="list-style-type: none"> ❖ Part 1 – Special Nature Reserves ❖ Part 2 – National Parks ❖ Part 3 – Nature Reserves ❖ Part 4 – Protected Environments ❖ Part 5 – Consultation Process ❖ Part 6 – General □ Chapter 4 – Management of Protected Areas <ul style="list-style-type: none"> ❖ Section 37 – Application of this Chapter ❖ Part 1 – Management Authorities and Management Plans ❖ Part 2 – Monitoring and Supervision ❖ Part 3 – Access to Protected Areas ❖ Part 4 – Restrictions 		<p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Take note.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p>

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STATUTES AND KEY PROVISIONS	REGULATIONS	COMMENT AND RECOMMENDED ACTIONS
<ul style="list-style-type: none"> □ Chapter 5 – South African National Parks □ Chapter 6 – Acquisition of Rights in or to Land <ul style="list-style-type: none"> ❖ Section 82 – Cancellation of Servitude on, or Privately Held Right in or to, State Land □ Chapter 7 – Administration of Act <ul style="list-style-type: none"> ❖ Section 86 – Regulations by Minister ❖ Section 87 – Regulations by MEC ❖ Section 88 – General □ Chapter 8 – Offences and Penalties □ Chapter 9 – Miscellaneous <ul style="list-style-type: none"> ❖ Section 90 – Repeal of Laws 	<p align="center">Regulations for the Proper Administration of Special Nature Reserves, National Parks and World Heritage Sites – GN R1061 of 28 October 2005</p>	<p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Monitor developments if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p>

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STATUTES AND KEY PROVISIONS	REGULATIONS	COMMENT AND RECOMMENDED ACTIONS
<ul style="list-style-type: none"> ❖ Section 91 – Savings ❖ Section 92 – Protected Areas Existing Before Commencement of this Section 		<p>Take note if relevant to the project.</p> <p>Take note if relevant to the project.</p>
<u>AIR POLLUTION</u>		
ATMOSPHERIC POLLUTION PREVENTION ACT 45 OF 1965		
<ul style="list-style-type: none"> □ Part II: Control of Noxious or Offensive Gases ❖ Section 8 – Controlled Areas ❖ Section 9 – Premises on which Scheduled Processes Carried on to be Registered 	<p>Declaration of the Areas in which Part II is Applicable – GN R1776 of 4 October 1968</p>	<p>Take note that Part II applies to the whole of South Africa. Developments should be monitored regarding the coming into effect of the remainder of the National Environmental Management: Air Quality Act 39 of 2004 and the repeal of the Atmospheric Pollution Prevention Act 45 of 1965.</p> <p>Identify all specific Scheduled Processes associated with the project and ensure they are properly registered. At the level of analysis required for the production of this report it appears that there may not be any scheduled processes associated with the project. However, this is a <i>prima facie</i> finding, particularly in light of the composition of the “salt” used as the heat-absorbing material in the CSP. The salt is described as a “working fluid” composed of a 60:40 ratio of Sodium Nitrate and Potassium Nitrate. APPA Schedule Two does not refer to such components, whether in association with each other or not. Further technical information may clarify this issue and either confirm or change the abovementioned <i>prima facie</i> finding.</p> <p>It is therefore recommended that this issue be investigated further, in particular whether the actions performed with the “salt” during the undertaking of the project amounts to a “process” within the meaning of APPA; and, whether the chemical composition of the “salt” is listed on</p>

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STATUTES AND KEY PROVISIONS	REGULATIONS	COMMENT AND RECOMMENDED ACTIONS
<ul style="list-style-type: none"> ❖ Section 10 – Application for and Issue of Registration Certificates and Provisional Registration Certificates ❖ Section 11 – Period of Validity of Conditions of Provisional Registration Certificates ❖ Section 12 – Conditions of Registration Certificates ❖ Section 13 – Appeals from Decisions of Chief Officer □ Part III – Atmospheric Pollution by Smoke 	<p>Regulations Concerning the Form of an Application for a Registration Certificate and the Form of Such Certificates – GN R561 of 2 April 1976</p>	<p>Also note that commencing the undertaking of a scheduled process is a “listed activity” requiring “EIA Authorisation” in terms of section 22 of the Environment Conservation Act 73 of 1989.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p>

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STATUTES AND KEY PROVISIONS	REGULATIONS	COMMENT AND RECOMMENDED ACTIONS
<ul style="list-style-type: none"> ❖ Section 14 – Application of this Part ❖ Section 18 – Smoke Control Regulations ❖ Section 20 – Establishment of Smoke Control Zones □ Part IV – Dust Control ❖ Section 27 – Dust Control Areas 	<p>Various Notices in terms of which local authorities were declared to be subject to Part III of the Act.</p> <p>Various Notices in terms of which local authorities have adopted smoke control regulations.</p> <p>Various Notices in terms of which local authorities have declared smoke control zones.</p> <p>Various Notices in terms of which local authorities, magisterial districts and other areas have been declared to be Dust Control Areas</p> <p>Regulations to Prohibit the Damage of Means Adopted to Prevent the Dispersion in the Atmosphere of Matter which may Cause Nuisance – GN R1599 of 19 August 1977</p>	<p>To the extent that smoke may be a concern to the project (which seems unlikely) the project team is recommended to take note of this provision.</p> <p>Developments should be monitored regarding the coming into effect of the remainder of the National Environmental Management: Air Quality Act 39 of 2004 and the repeal of the Atmospheric Pollution Prevention Act 45 of 1965.</p> <p>To the extent that smoke may be a concern to the project (which seems unlikely) the project team is recommended to identify whether the location of project falls within an area where the smoke control regulations have been adopted and apply.</p> <p>To the extent that smoke may be a concern to the project (which seems unlikely) the project team is recommended to determine whether the location of the project falls within a smoke control zone.</p> <p>To the extent that dust is a concern the project team is recommended to take note of this provision.</p> <p>Take note of content of Part IV of the Act and the regulations.</p> <p>Developments should be monitored regarding the coming into effect of the remainder of the National Environmental Management: Air Quality Act 39 of 2004 and the repeal of the Atmospheric Pollution Prevention Act 45 of 1965.</p>

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STATUTES AND KEY PROVISIONS	REGULATIONS	COMMENT AND RECOMMENDED ACTIONS
NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT 39 OF 2004		
<ul style="list-style-type: none"> □ Chapter 1 – Interpretation and Fundamental Principles <ul style="list-style-type: none"> ❖ Section 4 – Application of Act ❖ Section 5 – Application of National Environmental Management Act ❖ Section 6 – Conflicts with Other Legislation □ Chapter 2 – National Framework and National, Provincial and Local Standards <ul style="list-style-type: none"> ❖ Section 7 – National Framework Establishment ❖ Section 8 – National Monitoring and Information Management Standards ❖ Section 9 – National Standards 		<p>Take note. Developments should be monitored regarding the coming into effect of the remainder of the National Environmental Management: Air Quality Act 39 of 2004 and the repeal of the Atmospheric Pollution Prevention Act 45 of 1965.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note and monitor developments.</p> <p>Take note and monitor developments.</p> <p>Take note and monitor developments.</p>

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STATUTES AND KEY PROVISIONS	REGULATIONS	COMMENT AND RECOMMENDED ACTIONS
<ul style="list-style-type: none"> ❖ Section 10 – Provincial Standards ❖ Section 11 – Local Standards ❖ Section 12 – Ambient Air Quality and Emission Measurement □ Chapter 4 – Air Quality Management Measures <ul style="list-style-type: none"> ❖ Part 1 – Priority Areas ❖ Part 2 – Listing of Activities Resulting in Atmospheric Emissions (not yet in effect) ❖ Part 3 – Controlled Emitters ❖ Part 4 – Controlled Fuels ❖ Part 5 – Other Measures ❖ Part 6 – Measures in Respect of Dust, Noise and Offensive Odours 		<p>Take note and monitor developments.</p> <p>Take note and monitor developments.</p> <p>Take note and monitor developments.</p> <p>Take note and monitor developments.</p> <p>Developments should be monitored regarding the coming into effect of the remainder of the National Environmental Management: Air Quality Act 39 of 2004 and the repeal of the Atmospheric Pollution Prevention Act 45 of 1965.</p> <p>Take note and monitor developments.</p> <p>Take note and monitor developments.</p> <p>Take note and monitor developments.</p> <p>Take note and monitor developments.</p>

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STATUTES AND KEY PROVISIONS	REGULATIONS	COMMENT AND RECOMMENDED ACTIONS
<ul style="list-style-type: none"> □ Chapter 5 – Licensing of Listed Activities (not yet in effect) □ Chapter 7 – Offences and Penalties □ Chapter 8 – General Matters <ul style="list-style-type: none"> ❖ Section 53 – Regulations by Minister ❖ Section 54 – Regulations by MECs responsible for Air Quality ❖ Section 55 – General ❖ Section 59 – Exemptions ❖ Section 60 – Repeal of Legislation (not yet in effect) ❖ Section 61 – Transitional Arrangements in respect of Registration Certificates issued in terms of APPA (not yet in effect) 		<p>Developments should be monitored regarding the coming into effect of the remainder of the National Environmental Management: Air Quality Act 39 of 2004 and the repeal of the Atmospheric Pollution Prevention Act 45 of 1965.</p> <p>Take note.</p> <p>Take note and monitor developments.</p> <p>Take note and monitor developments.</p> <p>Take note and monitor developments.</p> <p>Take note.</p> <p>Developments should be monitored regarding the coming into effect of the remainder of the National Environmental Management: Air Quality Act 39 of 2004 and the repeal of the Atmospheric Pollution Prevention Act 45 of 1965.</p> <p>Developments should be monitored regarding the coming into effect of the remainder of the National Environmental Management: Air Quality Act 39 of 2004 and the repeal of the Atmospheric Pollution Prevention Act 45 of 1965.</p>

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STATUTES AND KEY PROVISIONS	REGULATIONS	COMMENT AND RECOMMENDED ACTIONS
<ul style="list-style-type: none"> ❖ Section 62 – Transitional Provision regarding Listed Activities ❖ Section 63 – Transitional Provision Regarding Ambient Air Quality Standards 		<p>Take note.</p> <p>Take note.</p>
<u>HAZARDOUS AND TOXIC SUBSTANCES</u>		
HAZARDOUS SUBSTANCES ACT 15 OF 1973		
<ul style="list-style-type: none"> □ Section 2 – Declaration of Grouped Hazardous Substances □ □ □ 	<p>Declaration of Group I Hazardous Substances – GN R452 of 25 March 1977 (as amended)</p> <p>Regulations on Group I Hazardous Substances – GN R453 of 25 March 1977 (as amended)</p> <p>Declaration of Group II Hazardous Substances – GN R1382 of 12 August 1994</p> <p>Declaration of Substances to be Group III Hazardous Substances – GN R1302 of 14 June 1991</p>	

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STATUTES AND KEY PROVISIONS	REGULATIONS	COMMENT AND RECOMMENDED ACTIONS
<ul style="list-style-type: none"> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Section 3 – Sale of Group I and Group III, and Letting, Use, Operation, Application and Installation of Group III, Hazardous Substances <input type="checkbox"/> Section 3A – Production, Acquisition, Disposal, and Importation and Exportation, of Group IV Hazardous Substances 	<p>Regulations Relating to Group III Hazardous Substances – GN R690 of 14 April 1989 (as amended)</p> <p>Group IV Hazardous Substances: Exclusions and Exemptions – GN R246 of 26 February 1993</p> <p>Regulations Relating to Group IV Hazardous Substances – GN R247 of 26 February 1993</p> <p>Various additional regulations relating to specific substances</p>	<p>Take note if relevant.</p> <p>Take note if relevant.</p>

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STATUTES AND KEY PROVISIONS	REGULATIONS	COMMENT AND RECOMMENDED ACTIONS
<ul style="list-style-type: none"> □ Section 4 – Licensing □ Section 5 – Period of Validity and Renewal of Licences □ Section 6 – Appeals to the Minister Against Decisions of, and Conditions Imposed by, Director-General □ Section 7 – Suspension and Cancellation of Licences □ Section 16 – Liability of Employer or Principal □ Section 17 – Preservation of Secrecy □ Section 18 – Offences □ Section 24 – Administration of Act by Authorised Local Authority □ Section 29 – Regulations 		<p>Take note if relevant.</p> <p>Take note if relevant.</p> <p>Take note if relevant.</p> <p>Take note if relevant.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p>

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STATUTES AND KEY PROVISIONS	REGULATIONS	COMMENT AND RECOMMENDED ACTIONS
<u>VARIOUS ADDITIONAL LEGISLATION</u>		
FENCING ACT 31 OF 1963		
<ul style="list-style-type: none"> □ Refer to the Act, including specifically: <ul style="list-style-type: none"> ❖ Section 15 – Rights pertaining to boundary fencing where holding is subject to certain servitudes ❖ Section 17 – Clearing of bush for boundary fencing 		<p>Take note.</p> <p>Take note.</p> <p>Take note.</p>
HEALTH ACT 63 of 1977		
<ul style="list-style-type: none"> □ Refer to the Act, including specifically: <ul style="list-style-type: none"> ❖ Section 20 – Duties and Powers of Local Authorities ❖ Section 27 – Procedures in respect of Conditions Requiring Immediate Remediating 		<p>Take note.</p> <p>Take note.</p> <p>Take note.</p>

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STATUTES AND KEY PROVISIONS	REGULATIONS	COMMENT AND RECOMMENDED ACTIONS
<ul style="list-style-type: none"> ❖ Section 54 – Application of Act to Land or Premises Owned or Occupied by State ❖ Section 55 – Application of Other Laws ❖ Section 57 – Offences and Penalties ❖ Section 63 – Repeal of Laws and Savings 	<p>General Health Regulations Promulgated in terms of the Public Health Act, 1919 – GN R180 of 10 February 1967</p>	<p>Take note.</p> <p>Take note.</p> <p>Take note.</p> <p>Take note.</p>
NATIONAL VELD AND FOREST FIRE ACT 101 OF 1998		
<ul style="list-style-type: none"> □ Refer to the Act, including specifically: <ul style="list-style-type: none"> ❖ Chapter 2 – Fire Protection Associations ❖ Chapter 3 – Fire Danger Rating ❖ Chapter 4 – Veldfire Protection Through Firebreaks 	<p>Fire Protection Association Regulations – GN R665 of 16 May 2003 (as amended)</p> <p>National Fire Danger Rating System – GN 1054 of 8 July 2005</p>	<p>Take note.</p> <p>Take note.</p> <p>Take note.</p>

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STATUTES AND KEY PROVISIONS	REGULATIONS	COMMENT AND RECOMMENDED ACTIONS
<ul style="list-style-type: none"> ❖ Chapter 8 – Enforcement ❖ Chapter 9 – General and Transitional Provisions 	<p>Regulations in terms of the Forest Act 122 of 1984 – GN R602 of 27 March 1986 (as amended)</p>	<p>Take note.</p> <p>If relevant, take note of provisions dealing with prevention and combating of veld, forest and mountain fires).</p>
NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT 103 OF 1977		
<ul style="list-style-type: none"> □ Refer to the Act, including specifically: <ul style="list-style-type: none"> ❖ Section 2 – Application of this Act ❖ Section 17 – National Building Regulations and Directives 	<p>National Building Regulations – GN R2378 of 12 October 1990 (as amended)</p>	<p>Take note.</p> <p>Take note of these provisions and specifically the provisions of section 2(3), section 2(4) and section 2(5) relating to any place as defined in section 1 of the National Key Points Act 102 of 1980.</p> <p>Take note of various environmental provisions if relevant.</p>
<u>KEY HEALTH AND SAFETY RELATED LEGISLATION HAVING DIRECT ENVIRONMENTAL IMPLICATIONS</u>		
DISASTER MANAGEMENT ACT 57 OF 2002		
<ul style="list-style-type: none"> □ Refer to Act. 		<p>Take note of relevance to environmental issues through the definition of “disaster” and monitor developments relating to promulgation of regulations</p>
OCCUPATIONAL HEALTH AND SAFETY ACT 85 OF 1993		
<ul style="list-style-type: none"> □ Refer to Act. 	<p>Various Regulations, including (with regard to matters relating to <i>inter alia</i> waste):</p>	<p>Take note, where relevant, of environmental issues.</p>

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	<p>Asbestos Regulations – GN R155 of 10 February 2002</p> <p>Construction Regulations – GN R1010 of 18 July 2003</p> <p>Lead Regulations – GN R236 of 28 February 2002</p> <p>Major Hazard Installation Regulations – GN R692 of 30 July 2001</p> <p>Regulations for Hazardous Chemical Substances – GN R1179 of 25 August 1995 (as amended)</p>	

RELEVANT PROVINCIAL LEGISLATION

CAPE NATURE AND ENVIRONMENTAL CONSERVATION ORDINANCE NO. 19 OF 1974

<input type="checkbox"/> Refer to Act.		<p>This Ordinance dates from prior to the introduction of the current constitutional dispensation. As is typical of such provincial legislation this ordinance provides <i>inter alia</i> for the utilisation of flora and fauna, e.g., hunting, and includes a schedule of protected species.</p>
		<p>Without specific detail on the flora and fauna found in the vicinity of the project it is not currently possible to assess the relevance of such schedule to the project. The team is recommended to refer to this Act and, in particular, the abovementioned schedules as implementation of the project progresses.</p>

ENDS

