



COMMENTS AND RESPONSES REPORT

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

PUBLIC PARTICIPATION PROCESS (EIA PHASE)

JUNE 2017

Table of Contents

1. ISSUES AND COMMENTS FROM ORGANS OF STATE.....	2
2. ISSUES AND COMMENTS FROM I&APs.....	10

No.	Issue/ Comment	Issue/comment Raised By	Response
1.	ISSUES AND COMMENTS FROM ORGANS OF STATE		
1.1	<p>This letter serves to inform you that the following information must be included in the final EIAR:</p> <p>a) Specialist studies</p> <ul style="list-style-type: none"> Please conduct an Avifauna Impact Assessment and the EIR must clearly highlight the impacts of the proposed development and the proposed mitigation measures on avifauna. <p>b) Specialist Declaration of Interest</p> <ul style="list-style-type: none"> Signed specialist declaration of interest forms, for the specialist studies conducted as part of the proposed development, must be submitted together with the final EIAR. Should in-house specialists be used for any specialist study, the specialist study must be peer reviewed by external specialists. <p>c) Coordinates</p> <ul style="list-style-type: none"> Please provide the start, middle and end point coordinates for the proposed powerline and also for the substation of all the proposed alternatives including the preferred alternative. <p>d) Environmental Management Programme (EMPr)</p> <ol style="list-style-type: none"> The final EMPr, which will be included in the final EIAR, must have a cover page and a date (month and year), for ease of reference. The EMPr must not contain any ambiguity. Where applicable, statements containing the words 'should' and 'may' must be amended to 'must'. <p>e) Public Participation Process (PPP)</p> <p>The following information must be submitted with the final EIAR:</p> <ol style="list-style-type: none"> Proof of submission of report to all organs of state which have jurisdiction in respect of the proposed activity (including this Department's Biodiversity Section); Copies of comments received from I&APs and organs of state which have jurisdiction in respect of the proposed activity (including this Department's Biodiversity Section); and, 	<p>Ms Portia Makitla</p> <p>Department of Environmental Affairs: case officer</p> <p>Sent via an official letter 02/06/2017</p>	<ol style="list-style-type: none"> Specialist studies: An avifaunal study was conducted for the project in 2016 as part of the EIA phase however the reporting was combined in the Faunal Report. This has been separated and an individual report is herewith attached in the Final EIA Report as Appendix 4.3. Specialist Declaration of Interest: Signed specialist declaration of interest forms is submitted with the final EIA Report, this is attached in Appendix 6.2. Coordinates: The start, middle and end point coordinates for the proposed powerline alternatives are provided in the Final EIA Report under section 1.1 (i.e. Project Background), the Droeriver SS coordinates are as follows: Lat: 32°24'20.72"S Long: 22°31'54.46"E. Environmental Management Programme (EMPr): i) the final EMPr, which is included in the final EIAR, have a cover page and a date for ease of reference. ii) Where applicable, statements containing the words 'should' and 'may' have been amended to 'must'. Public Participation Process (PPP): The following information must be submitted with the final EIAR: <ol style="list-style-type: none"> Proof of submission of report to all organs of state which have jurisdiction in respect of the proposed activity (including this Department's Biodiversity Section) attached in Appendix 3.2 (b) Copies of comments received from I&APs and organs of state which have jurisdiction in respect of the proposed activity (including this Department's Biodiversity Section); attached in Appendix 3.2 (c) and, All comments received from I&APs and organs of state, including comments from this Department, must be incorporated into the comments and response report. All comment received to date have been incorporated into the Comment a& Response Report - attached in Appendix 3.2 (d) The project entails that transmission power lines of 400kV will be erected outside towns in the Western Cape (Alternative 2 runs partly

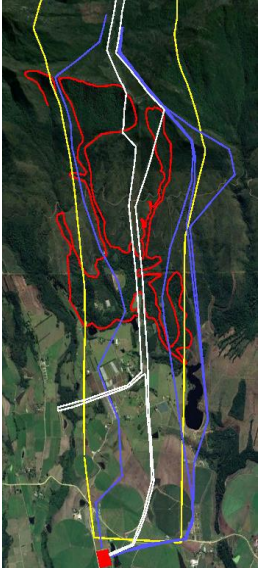
No.	Issue/ Comment	Issue/comment Raised By	Response
	<ul style="list-style-type: none"> iii. All comments received from I&APs and organs of state, including comments from this Department, must be incorporated into the comments and response report. iv. The project entails that transmission power lines of 400kV will be erected outside towns in the Western Cape (Alternative 2 runs partly through the Eastern Cape); please ensure that both Provinces provide their comments on the proposed development. v. Please ensure that all comments and issues raised are adequately addressed and proof that all relevant stakeholders or organ of state were conducted during PPP as per Regulation 39, 40, 41, 42, 43 & 44 of 2014 EIA Regulation is provided in the final EIAR because your application will be in a risk of being refused. vi. Please ensure that clear maps are included in the report and note that the Department will not accept Google maps for decision-making purposes. 		<p>through the Eastern Cape); please ensure that both Provinces provide their comments on the proposed development. Comments have been previously received from both the provincial Dept, however they've informed the team that their comments remains the same as per the previous applications.</p> <ul style="list-style-type: none"> v. Please ensure that all comments and issues raised are adequately addressed and proof that all relevant stakeholders or organ of state were conducted during PPP as per Regulation 39, 40, 41, 42, 43 & 44 of 2014 EIA Regulation is provided in the final EIAR because your application will be in a risk of being refused. All comment received to date have addresses both in the record of correspondences (Appendix 3.2c and recorded in the Comment & Response Report (Appendix 3.2 d) vi. Comment noted regarding the quality of the maps
1.2	<ul style="list-style-type: none"> 1. The abovementioned document received by this Department on 12 May 2017 refers. 2. This letter serves as an acknowledgment of receipt of the abovementioned document by the Directorate: Development Management (Region 3) of this Department. 3. This Department has reviewed the abovementioned document and the comment (Ref: 16/ 3/ 3/ 6/ 4/ 2/ 1/ 02/ 6/ 0098/ 15) dated 15 November 2016 on the EIA Report for the previous Environmental Impact Assessment process still stands and all the issues raised remains valid. 	<p>Ms Shireen Pullen</p> <p>Western Cape Government: Department of Environmental Affairs and Development Planning</p> <p>Sent via E-mail: 16/06/2017</p>	<p>Comment noted, no response required.</p>

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	<p>4. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.</p> <p>5. This Department reserves the right to revise its initial comments and request further information from you based on any new or revised information received.</p>		
1.6	<p>CapeNature, as custodian of biodiversity in the Western Cape would like to thank you for the opportunity to review the proposed Draft Environmental Impact Report (received on the 12^h of May 2016) and wishes to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the application. The applicant is proposing to build an approximately 200 km 400 kV powerline from Narnia (Blanco) substation. near George. to the Droerivier Substation at Beaufort West in the Western Cape Province. This process aims to identify 2 km wide corridor for the proposed 400 kV line, following which the line will be designed (within the corridor) and a 55 m servitude established within the corridor at a later stage. Two alternative routes (excluding the No-Go a alternative) were assessed. The preferred alternative is 178 km in length, but passes through the Swartberg Nature Reserve which is also a World Heritage site. The second alternative bypasses the Swartberg Nature Reserve, and is 270 km in length. This project underwent an identical EIA process during 2016, which was almost completed in early 2017 but the applicant's timeframes lapsed and the project had to be re-submitted via a new EIA process. CapeNature internally debated the findings of the previous process with numerous specialists, manager and directors within the organisation and strongly objected to the preferred alternative during the previous process (SSD ref. #: 4/2/6/1 / 5/0_CKDM/NarDroe_2015/094. dated the 10^h of February 2017). Following a review of this application with appendices. Cape Nature would like to make the following comments/recommendations:</p> <p>1. The Western Cape Biodiversity Sector Plan (WCBSP 2017)² has only</p>	<p>Dr Ernst HW Baard</p> <p>Cape Nature: Executive Director Biodiversity Support</p> <p>Sent via E-mail: 12/06/2017</p>	<p>1. As per CapeNature' recommendation, all biodiversity reports (Fauna, Flora & Avifauna) have been revised to take the latest Western Cape Biodiversity Sector Plan (WCBSP 2017) into considerations. The different report have addressed meeting the WCBSP conservation targets from a different approach, for instance according to the revised Vegetation report, although the vegetation type in the study area are classified as Least Threatened, it is poorly protected and certain habitats or communities may be subsequently affected by the loss of unprotected vegetation types on a cumulative basis from the broad area which may impact the province ability to meet its conservation targets and the line alternative with a lesser significant impact (in this case Alternative 2 according to the Vegetation report) may assist in meeting the WCBSP conservation targets to some extent. A dropbox link with all the updated biodiversity report is included in this email correspondence</p> <p>2. The updated biodiversity report have included and revised all of the CBA and sensitivity maps for both EIAs based on the new version of the WCBSP 2017 include an international extent for the Blanco-Droerivier project. This resulted in slight changes to the overall impacts. The CBA maps were very similar to previous versions and did not result in any changes to overall impacts or preferred route options. But some recommendations and preferred route options remained the same (from an avifaunal and faunal perspective) and changed (from vegetation view), these are summerised as follows:</p> <ul style="list-style-type: none"> Avifauna: "It is the specialist's opinion that the Blanco-Droerivier Alternative 1 would have less of an impact on avifauna than Alternative 2, providing the recommended mitigation measures are implemented. Although the

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>recently become available. Therefore, it is recommended that all biodiversity specialists be availed the opportunity to revise their relevant reports for this project accordingly to, inter alia, determine the desirability of the proposed routes within Protected Areas and Critical Biodiversity Areas. In addition to which these specialists must give a reasoned opinion on the likely effects of each alternative would have on meeting the WCBSP conservation targets.</p> <p>2. The Swart berg Nature Reserve is a United Nations Educational, Scientific and Cultural Organization (UNESCO) listed World Heritage site. Where relevant, CapeNature therefore recommends that all impacts for the Preferred Alternative corridor be updated to reflect that construction or operational phase activities within this site will have an international extent significance weighting, especially relevant to fauna and flora impacts.</p> <p>3. Alternative 2 crosses primarily transformed habitat compared to the preferred alternative crossing the pristine Swart berg World Heritage Site. The applicant is required for safety reasons to periodically cut/remove vegetation below the existing powerlines crossing the Swart berg World Heritage Site to reduce the risk of fires. This activity results in direct destruction of threatened plant species and fundamental long term impacts to the vegetation structure of the world heritage site. Many of the threatened plant species are also fire dependant and by limiting the frequency of fires through the servitude the vegetation structure would also be altered. The following comments relate to the specialist vegetation assessment report:</p> <p>3.1 It is recommended that the impacts for each alternative be rated separately to accurately ascertain which alternative has the lowest impact ratings.</p> <p>3.2 The preferred alternative passes through South Swart berg Sandstone Fynbos (where it crosses the Swart berg Mountains), up to 3 m high that is currently being cleared during the operation phase of the powerlines. The majority of the</p>		<p>preferred route bisects the Swartberg Mountains and Outeniqua Mountains IBAs, it is the significantly shorter of the two options, and there is existing powerline infrastructures which mitigates many of the impacts associated with birds and powerlines. The existing service roads (and shorter route option) will result in less bird habitat being destroyed or fragmented during the construction phase of the project. Furthermore, Alternative 2 separates three IBAs. There is likely to be regular migration of bird SCC (particularly raptors) between these mountainous areas. Birds are less likely to be cautious of large infrastructures in this area, which could lead to higher mortalities of SCC and powerline priority species due to collisions/electrocutions with powerline infrastructures”.</p> <ul style="list-style-type: none"> • Fauna: “From a faunal perspective it is recommended that the Blanco-Droerivier Alternative 1 is the preferred route option for the proposed power line. It is noted that Alternative 1 does traverse a UNESCO World Heritage Site (Swartberg Mountains) as well as a reptile hotspot. However, it is (i) the significantly shorter route option, ii) there is existing powerline infrastructure including service roads and therefore the construction footprint will be smaller, and iii) it avoids the Vetkuil Amphibian Hotspot which provides a highly isolated habitat for numerous amphibian species including species of conservation concern”. • Vegetation: “Alternative 1 goes also through an UNESCO-listed World Heritage Site. The implication of this is that the Swartberg Nature Reserve might lose its World Heritage Status if another power line and its associated infrastructure is being constructed through this nature reserve. Furthermore the regular cutting of the fynbos to maintain a low fuel-load under the power line is another impact which

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>Alternative 2 route has karroid vegetation approximately 0.5 m high, which will likely not require clearing. This should be considered when comparing the impact ratings.</p> <p>3.3 The general region within the Swartberg Nature Reserve, near the powerline crossing over the Swart berg Mountains is also the only area where Berrisford's colophon beetle <i>Colophon berrisfordi</i> is known to occur. This species is not listed in the species list of the vegetation assessment. The presence of such species within the preferred alternative 2 km wide corridor should be noted and will likely increase the vegetation sensitivity of the corridor accordingly.</p> <p>4. The aim of this project is for the applicant to obtain greater electrical grid stability. As has been previously mentioned in the field trips and at meetings, the current servitude is often subject to snowfall, fires and lightning strikes, in particular where it passes over the Swartberg Mountains through the nature reserve. This is a direct threat to grid stability and power outages. Therefore, the question is whether Alternative 2 would not provide greater grid stability to the applicant?</p> <p>5. A proposal was made during the field trip in 2016, that Alternative 2 could be more viable financially, should users from the Eastern Cape also require grid strengthening. It does not appear that this recommendation was investigated further? The establishment of a new corridor could lead to other advantages for the other regions of the country possibly outside of the Western Cape.</p> <p>6. To conclude, this application was an assessment to determine the route of a 2 km wide corridor, within which a 55 m powerline servitude would to be designed and built. CapeNature liaised internally with numerous specialists, managers and staff. Based on the information provided, Cape Nature does not object to Alternative 2 and continues to strongly object to the preferred alternative for this project. CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be</p>		<p>could jeopardise the international status of this reserve”.</p> <p>3.1 The impacts for each alternative has been rated separately (please refer to the revised reports)</p> <p>3.2 The vegetation report has considered this and has revised the report and has concluded that “Alternative 2 is regarded as the better route for the proposed power line because of the following: the proposed route through the Swartberg Nature Reserve might jeopardise its status as World Heritage Site. Furthermore Alternative 2 goes through large sections of transformed vegetation. Less Red Data shrubs species such as Protea, Leucodendron, Erica, Brunia occur along alternative 2”</p> <p>3.3 According to the revised vegetation report, Alternative 1 route cuts across a national protected area in the Swartberg Mountain range namely the Groot Swartberg Nature Reserve, which is a UNESCO - listed World Heritage Site. The area is also the habitat of the critically endangered <i>Colophon berrisfordi</i> beetle and as such the presence of this species makes this alternative less desirable.</p> <p>3.</p> <p>4. According to Eskom, Alternative 2 would not necessarily provide greater grid stability, and as per previous correspondences with this Department, Alternative 1 still more technically viable and Eskom has design mitigations for all these adverse factors. Eskom is of the opinion that they can design for snow, high wind fires etc. with all these mitigations.</p> <p>5. It must note that there is no forecasted need for a new substation in Eastern Cape, hence a substation that side will not be financially viable from Eskom's perspective.</p> <p>6. CapeNature objection of Alternative 1 has been noted and taken into consideration by all biodiversity specialist and Eskom technical team alike. It must be noted that the EIA study has been undertaken from an integrated approach whereby it considers the implication of the line on the biodiversity, water resources, social, visual and heritage perspective. And in this case, nine out of the 10 specialist studies that have been undertaken have recommended Alternative 1; this recommendation is also supported from a technical point of view. It is noted that Alternative 1 does traverse a UNESCO World Heritage Site (Swartberg Mountains), however, it is (i) the significantly shorter route option, ii) there is existing powerline infrastructure including service</p>

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	received.		roads and therefore the construction footprint will be smaller. Ideally, the types of impacts that should be avoided would be those that cannot be mitigated with good result. Usually this would be the visual impacts and the heritage. Sensitive ecological features such as vegetation and fauna habitats could often be avoided during the detail design phase of the project, by careful placing of tower footprints. Proper implementation of mitigation measures can minimise some of the negative impacts of Alternative 1 as recommended by the specialists (ie a preconstruction walk-through of the development footprint/project site in order to assess the pylon footprint areas for Red Data species as well as sensitive ecosystems such as streams, wetlands, etc.. In addition, a search and rescue operation should be done to remove plant species which can be successfully transplanted). It is also noted Eskom may continuously require inputs from this Department in order to best manage some fire risks that might be associated with this project.
1.12	DAFF would prefer the alternative that has no impact on indigenous forest/ protected trees, at this stage it seems to be Alternative 2. But DAFF would make a final decision once a detailed impact assessment has been conducted and provided to the Department.	Melanie Koen Department of Agriculture, Forestry and Fisheries (DAFF) Sent via E-mail: 12/06/2017	Your letter dated 12 June 2017 regarding the above project has reference. Thank you for the comments on this proposed project. Please note that both alternative routes could potentially have an impact on the indigenous forest/ protected trees as they are both joined at the Outeniqua Mountains. But as discussed in the site visit held on the 20 th June 2017, there is only one alternative (corridor) to cross the Outeniqua Mountain Range. The forest occurs in pockets along the Outeniqua Mountain's southern slopes. Forest vegetation will be destroyed at the footprints of the power line pylons as it is one of ESKOM's maintenance policies to clear the trees and shrubs under the power lines to lower the fuel load of the vegetation. By doing so they want to prevent fires to occur under or near power lines. This activity can potentially destroy trees such as <i>Ocotea bullata</i> , <i>Afrocarpus falcatus</i> , <i>Podocarpus latifolius</i> , <i>Curtisia dentata</i> , <i>Pittosporum viridiflorum</i> and some fynbos shrubs such as <i>Protea</i> , <i>Leucodendron</i> , <i>Erica</i> , <i>Brunia</i> and others. It will be difficult to choose an ideal route through the existing infrastructure (centre pivots, hothouses, crop fields, dams, farmsteads and timber forests) as well as natural forests. Figure below indicates suggested line routes (Options A, B, C, & D) which aim to avoid as much natural forest as possible.

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			 <p data-bbox="1317 831 2190 1007">Figure: A Google image of the southern slopes of the Outeniqua Mountains. Note the pockets of Southern Afrotemperate Forests (red areas) and the cleared vegetation where existing power lines are (white lines). The yellow lines indicate the corridor within which the proposed power line must fit. The red square is the Narina substation and the blue lines are possible route options (A, B, C & D).</p> <p data-bbox="1317 1038 2190 1385">So in conclusion the revised Vegetation report (https://www.dropbox.com/s/dlvvkxnowxcgixw/Blanco-Droerivier%20Vegetation%20Report.pdf?dl=0) recommends that the southern slopes of the Outeniqua Mountains to be treated as No-Go areas. Figure 8 of section 6.4.1 in this report indicates suggested line routes options which aim to avoid as much of the natural forest as possible for consideration during the finalising of the design. There should be a preconstruction walk-through of the development footprint/project site in order to assess the pylon footprint areas for protected and Red Data species as well as sensitive ecosystems. Where these cannot be totally avoided, a permit to be obtained for removal of protected trees (DAFF) and provincially protected flora that are affected.</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
			Should you have any queries or would like to discuss anything further, please do not hesitate to contact me
1.13	<p>This office has reviewed the report and has the following comments:</p> <ol style="list-style-type: none"> 1. It is noted that this EIA process is conducted following the lapsing of a previous similar application and that the contents of the EIA report has not changed significantly. 2. Be advised that previous comments provided by the BGCMA on the letter dated 07 October 2016 and 11 October 2016 still apply. However BGCMA must be informed should there be changes or addition the development. <p>The BGCMA reserves the right to revise initial comments and request further information based on any additional information that might be received.</p> <p>The onus remains on the registered property owner to confirm adherence to any relevant legislation with regards to the activities which might trigger and/or need authorization for.</p>	<p>Philiwiwe Ntanzu</p> <p>Breede-Gouritz Catchment Management Agency: Water Use Officer</p> <p>Sent via E-mail: 15/06/2017</p>	Your letter dated 13 June 2017 regarding the above projects has reference. Thank you for the comments on these proposed project, we note that the previous comments provided by the BGCMA on the letter dated 07 October 2016 and 11 October 2016 still apply.
1.12	<p>Heritage Western Cape is in receipt of your application for the above matter received on 4 October 2016. This matter was discussed at the Impact Assessment Committee (IACOM) meeting held on 9 November 2016.</p> <p><u>FINAL COMMENT</u></p> <p>The report satisfies the requirements of S 38(3) of the NHRA. The Committee supports Alternative 1 subject to the following conditions:</p> <ul style="list-style-type: none"> • A targeted walk down of certain sections of the line as described in the archaeological report must be undertaken in order to assess the possibility of impacts; • A report on the results of the walk down must be submitted to HWC for assessment and approval; 	<p>Mr Andrew September</p> <p>Heritage Western Cape: Heritage Case Officer</p> <p>Sent via E-mail: 18/11/2016</p>	Comments and recommendations are noted and updated in the EMPr document of the Final EIA report

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	<ul style="list-style-type: none"> Rock art sites must be protected from vandalism by ensuring that they are fenced off during the construction of the powerline; <p>If unmarked graves are uncovered during the construction of the tower footings, all work in that area should cease immediately, and HWC must be contacted. HWC reserves the right to request additional information as required.</p>		
1.13	<p>The South African National Roads Agency SOC Limited (SANRAL) has received information regarding the above proposed projects relating to the establishment of a 400KV transmission line, possibly along the N9 or N12 respectively. The following comments should be noted:</p> <ol style="list-style-type: none"> SANRAL herewith like to register as IAP for this project. If services need to be constructed parallel within 60m measured from the road reserve fence, over or under the national road, (in this case the N12 and N9) the service owner must apply for a written permission from SANRAL, before any work may be carried out. Attached please find an application form for the proposed encroachment. 	<p>Ms Nicole Abrahams</p> <p>SANRAL: Environmental Coordinator</p> <p>Sent via E-mail: 25/05/2017</p>	<p>Thank you Nicole for your comments these are noted and have been forwarded to Eskom.</p> <ol style="list-style-type: none"> Please note that SANRAL is a registered I&AP for this project and would be informed of the progress of the project as we proceed. As standard practice, Eskom will be in contact with your Department prior to construction in order to acquire permission from yourselves as the project is proposed in close proximity to the SANRAL roads.
2. ISSUES AND COMMENTS FROM I&APS			
2.1	<p>Please email a copy of the Avian Specialist study</p> <p>We would like to state upfront and on record that there is a requirement for a Avian Specialist Study and that it may not be included in the Faunal Study. Please supply Avian Study for BLANCO TO DROERIVIER. We commented on this previously and would like to see if our concerns have been recorded</p> <p>Sincerely</p> <p>Please advise why the avian study was not included in the initial PPP. It is one of the most important impacts and for this particular line as many protected species have been killed by the existing line</p>	<p>Karoo Group</p> <p>I&APs</p> <p>Sent via E-mail: 07/06/2017</p>	<p>My apologies for the delayed reply, please find attached a Fauna report (which encompasses the avian study).</p> <p>Just like in the case of the Gourikwa-Blanco project, the Blanco-Droerivier avian study form part of the fauna report (attached). Please advise why the avian study cannot form part of the fauna report.</p> <p>Kindly note that a separate Avifaunal Report is being compiled, a copy of this report will be forwarded to you in due course.</p> <p>As per my previous correspondence, an avifaunal study was conducted for the projects however the reporting was combined in the Faunal Report.</p> <p>This has been separated and an individual report is herewith</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	through the Karoo having a severe effect of Blue Crane and Bustard populations amongst others		attached. I will send the Gourikwa Blanco one in a separate email due to sizes.
2.1	<p>1 We act on behalf of Geelhoutboom Estate (Pty) Ltd (Registration Number 2004/009498/07) (the 'Client').</p> <p>2 Eskom proposes the establishment of a Gourikwa to Blanco 400Kv transmission line and substation upgrade as well as a Blanco (Narina) to Droërvier 400Kv transmission line and substation upgrade.</p> <p>3 Envirolution Consulting (Pty) Ltd (the EAP) has been appointed by Eskom Holdings SOC Ltd (Eskom) to undertake an environmental application process for the proposed projects.</p> <p>4 As a registered Interested and Affected Party, our Client was furnished with copies of the Draft Scoping Reports prepared by the EAP, which reports were dated January 2017.</p> <p>5 Our Client's comments on the Draft Scoping 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 were duly submitted to the EAP and dated 10 February 2017.</p> <p>6 Due to the fact that both Draft Scoping Reports contained the same material flaws and lack of information, our Client combined its comments on both reports in its abovementioned consolidated letter.</p>	<p>ANDRE SWART</p> <p>Stadler & Swart Attorney (on behalf of Geelhoutboom Estate (Pty) Ltd – Landowner</p> <p>Sent via letter 12/06/2017</p>	<p>Thank you for these comments (point 1-6) is noted.</p>
	<p>[7] Our Client was informed via two emails on 12 May 2017 by the EAP that both abovementioned environmental application processes for the proposed projects had lapsed. The EAP has, not however, failed to provide our Client with copies of the new Applications for Environmental Authorisations, nor did it provide our Client with copies of the Plans of Study for Environmental Impact Assessment. This fact severely prejudices the rights of our Client. The EAP is hereby called upon to urgently provide our Client with these documents.</p>		<p>The lapsing of the previous application was first explained in Scoping phase</p> <p><i>"The EIA process for the proposed construction of the Blanco to Droërvier 400kV Power line and Substation commenced in early 2015 under the reference number: 14/12/16/3/3/2/922. This application has lapsed in accordance with Regulation 23 (1) of the EIA Regulations, 2014 and a new EIA process is currently being undertaken. This new process entails (1) the resubmission of a new application to DEA and the project will be assigned a new reference number, (2) the release of a Draft Scoping Report (DSR) and a Draft Environmental Impact Assessment Report (DEIAR) for public review and thereafter (3) resubmission the final reports to DEA for decision-making."</i></p> <p>Copies of the new Application form was appended as Appendix 2 Scoping report and the plan of study for EIA phase was included in</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
			Chapter 8 of the Scoping report which was made available to all stakeholders for review.
	<p>[8] From correspondence provided by the EAP it is apparent that although the previous Environmental Application Processes have lapsed, the Draft Scoping Reports were accepted by the National Department of Environmental Affairs (the Competent Authority) in letters both dated 4 May 2017. In both such letters consent was granted to Eskom to “proceed with the Environmental Impact Assessment process in accordance with the tasks contemplated in the PoSEIA [sic] and the requirements in Appendix 3 of the EIA Regulations, 2014.” It is with regret that our Client notes that the Draft Scoping Reports were accepted by the Competent Authority in light of the instances of material flaws and lack of information that was pointed out in our Client's comments and submissions.</p>		The lapsing of the previous application was solely based on EIA time frames requirements and therefore a new application had to be resubmitted. The Scoping Report was compiled in accordance with Appendix 2 EIA Regulations, 2014.
	<p>[9] Subsequently our Client, as registered Interested and Affected Party, was furnished with copies of the Draft Environmental Impact Assessment Reports (draft EIA Reports) pertaining to both projects and both dated May 2017.</p> <p>[10] This letter constitutes our Client's comments on the Draft EIA Reports as envisaged in terms of Regulation 43(1) of the EIA Regulations.</p> <p>[11] Due to the fact that both Draft EIA Reports (as was the case with the Draft Scoping Reports) contain the same material flaws and lack of information, our Client again combines its comments on both reports in this consolidated letter.</p>		Comments noted
	<p>12 The purpose of these comments is to demonstrate that the Draft EIA Reports (as was the case with the Draft Scoping Reports) in material respects do not comply with the mandatory requirements of the National Environmental Management Act No 107 of 1998 (the NEMA) and the EIA Regulations. Portions of our Client's previous comments shall be repeated herein for purposes of emphasis and to indicate that <u>the EAP has failed to address the issues raised by our Client during the scoping process</u> in the Draft EIA Reports. The EAP has attempted to respond to the comments of our Client which responses (the EAP Responses) are contained in documents attached as annexures to both Draft EIA Reports under the heading “Comments and Responses Report”. Both documents are substantially similar with regards to our Client's comments. Below we shall provide our Client's reaction to such responses of the EAP.</p> <p>[13] Upon a reading of the Draft EIA Reports, and as highlighted below, it is</p>		<p>Three issues were raised with regards to the 'non-compliance nature of the report with the NEMA.</p> <ul style="list-style-type: none"> • Issue1 (Lack of information) in response to this, it was explained that Eskom has 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 EIA Report. The Transmission Development Plan can be downloaded directly from the following Eskom website http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf .However Extracts of the planning documents have been provided in the report. • Issue 2 (Need and Desirability) in this regard it was again explained that careful consideration is given to the entire portfolio of the Eskom Transmission Projects. If an opportunity arises to defer projects, then

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>clear that the EAP failed to address the issues and instances of non-compliance as highlighted by our Client previously during the scoping process.</p>		<p>Eskom will take this into considerations. In this instance due to the 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.</p> <ul style="list-style-type: none"> Issue 3 (Vested Rights): Landowners form the focal point of these applications and their vested rights have been taken into considerations throughout the whole EIA process. Every means of communication tool as prescribed by the regulation and beyond have been used to involve the potentially affected landowners in these applications. <p>These interactions with the landowners are recorded in the public participation process section of the EIA report. Section 4.3 also gives a summary of concerns from landowners. Furthermore different specialist studies (i.e. Social, Socio-economic and Visual impact studies) were conducted that mostly focussed on the impacts of that proposed line will have on landowners. These studies made recommendations of the alignment with the least from each perspective.</p> <p>Having said this, the process of engaging with landowners also goes beyond the EIA process as each impacted landowner must be consulted for servitude negotiations.</p>
	<p>[14] As is evident from the above 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>[15] 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 refuse environmental authorisation in terms of Regulation 24(1)(b). Regulation 24(1)(b) provides as follows: <i>"24(1) The competent authority must within 107 days of receipt of the environmental impact report and EMPr, in writing – (b) refuse environmental authorisation."</i></p>		<p>Three issues were raised with regards to the 'non-compliance nature of the report with the NEMA.</p> <ul style="list-style-type: none"> Issue1 (Lack of information) in response to this, it was explained that Eskom has 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 EIA Report. The Transmission Development Plan can be downloaded directly from the following Eskom website http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf .However Extracts of the planning documents have been provided in the report. Issue 2 (Need and Desirability) in this regard it was again explained that careful consideration is given to the entire portfolio of the Eskom

No.	Issue/ Comment	Issue/comment Raised By	Response
			<p>Transmission Projects. If an opportunity arises to defer projects, then Eskom will take this into considerations. In this instance due to the 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.</p> <ul style="list-style-type: none"> Issue 3 (Vested Rights): Landowners form the focal point of these applications and their vested rights have been taken into considerations throughout the whole EIA process. Every means of communication tool as prescribed by the regulation and beyond have been used to involve the potentially affected landowners in these applications. <p>These interactions with the landowners are recorded in the public participation process section of the EIA report. Section 4.3 also gives a summary of concerns from landowners. Furthermore different specialist studies (i.e. Social, Socio-economic and Visual impact studies) were conducted that mostly focussed on the impacts of that proposed line will have on landowners. These studies made recommendations of the alignment with the least from each perspective.</p> <p>Having said this, the process of engaging with landowners also goes beyond the EIA process as each impacted landowner must be consulted for servitude negotiations.</p>
	<p>[16] We have advised our Client that it will, in the circumstances, not be open to Eskom to redress the flaws of the Draft EIA Reports in terms of the provisions of Regulation 23(1)(b). Such provisions relate to significant changes affected to the Draft EIA Reports and the introduction of significant new information subsequent to public participation. Any such attempt will in the instant matter constitute a collapsing of the distinct phases of the Environmental Application Process which will be unlawful.</p> <p>[17] In these comments we will focus only on the material instances of non-compliance seeing as our Client is as a result of such non-compliances, 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.</p>		<p>Comments noted</p>
	<p>[18] Below we will deal with:</p>		<p>Comments noted</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>18.1 The context of the Eskom Environmental Applications and the fragmentation thereof; 18.2 Legislative Scheme: 18.2.1 Planning Legislation; 18.2.2 NEMA; 18.2.3 EIA Regulations. 18.3 Non-compliance with the NEMA: 18.3.1 Lack of Information; 18.3.2 Alternatives; 18.3.3 Need and Desirability. 18.4 Vested Rights</p>		
	<p>context of the Eskom Environmental Applications and the fragmentation thereof (point 19-26)</p> <p>[19] 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 Droërvier Proteus Loop-In Loop-Out Powerline Project within the Blanco Area. The three relevant environmental applications form a core component of the larger Eskom grid in the Western Cape. Our Client submits that the fragmented manner in which the three environmental applications are processed constitutes a total collapse of the Environmental Application Processes, which makes it almost impossible for Interested and Affected Parties to understand and comment on the applications. Our Client submits that all three of Eskom's environmental applications should be consolidated and processed in an integrated manner.</p>		<p>Please note that this is two different projects, with different timelines and purposes. The Narina S/S and loop in lines are two separate EIA's, but one project for the purpose of strengthening the Blanco distribution network. The Gourikwa-Blanco-Droerivier project is a totally separate project with its own EIA for the purpose of accommodating planned increase in generation capacity.</p>
	<p>[20] In response to the above, the EAP makes the vague and unsubstantiated comment that the environmental applications which form the subject matters of the Environmental Reports are three different projects with different timelines and "different internal demands on the part of Eskom." No further information is provided. These vague comments do not place Interested and Affected Parties in any position to consider and comment on the various environmental applications as an integrated whole. Furthermore, it does not comply with the National Environmental Management Principles contained in the NEMA. In particular this approach of Eskom and the EAP does not comply with the principle of</p>		<p>Please note that this is two different projects, with different timelines and purposes. The Narina S/S and loop in lines are two separate EIA's, but one project for the purpose of strengthening the Blanco distribution network. The Gourikwa-Blanco-Droerivier project is a totally separate project with its own EIA for the purpose of accommodating planned increase in generation capacity.</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>integrated environmental management which is one of the underlying principles of the NEMA. Section 2(4)(b) of the NEMA provides as follows: <i>"24(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>[21] In various parts of the Draft EIA 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 EIA Reports suggest to Interested and Affected Parties that the approval of the Narina (Blanco) MTS Substation is a fact.</p> <p>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. In response to the aforementioned submissions, the EAP states that the environmental authorisation for the proposed Narina substation has been granted. For purposes of emphasis, our Client submits that this position is legally incorrect and misleading and that our Client submitted a comprehensive appeal against the Narina substation approval.</p>		<p>It is a fact that authorisation for the proposed Narina (Blanco) 400/132Kv MTS Substation and Droërivier Proteus Loop-In Loop-Out Powerline Project within the Blanco is granted (this is not incorrect or misleading); however it acknowledges that an appeal on the application is pending.</p> <p>It should also be note that the Minister of Environmental Affairs has dismissed the appeal, through the letter date 15-05-2017 (attached)</p>
	<p>[22] The setting aside of the Narina approval or even the variation thereof, may have a material impact on the current environmental applications. Hence the reason why our Client submits that the three environmental applications should at least be processed simultaneously and an integrated decision making process be followed.</p>		<p>Please note that this is two different projects, with different timelines and purposes. The Narina S/S and loop in lines are two separate EIA's, but one project for the purpose of strengthening the Blanco distribution network. The Gourikwa-Blanco-Droerivier project is a totally separate project with its own EIA for the purpose of accommodating planned increase in generation capacity.</p>
	<p>[23] 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. The EAP</p>		<p>Comments are noted. The clarification regarding strategic projects in the region is discussed in Chapter 2 under section 2.2 of the EIA Reports. In summary: Blanco (Narina) 400/132 kV Substation and Loop-in Lines - triggered in 2010 by Eskom Distribution due to local load requirements. Eskom Transmission</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>provided the following response to the aforementioned comments:</p> <p><i>"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.</i></p> <p><i>A Customer Load Network (CLN) is a network within a specific geographical area, which in turn is a subdivision of a Grid. The West Grid consists of four Customer Load Networks, namely Peninsula, Southern Cape, West Coast and Namaqualand. The proposed 400kV Transmission power line from the Blanco Substation to the Droërivier Substation forms part of Eskom's West Grid and the Southern Cape CLN."</i></p>		<p>Grid Planning initiated a study in 2012 to investigate possible solutions to address transformation constraints at Proteus Substation as well as the sub-transmission constraints experienced on the network supplying the Blanco area.</p> <p>The load forecast for Proteus Substation indicated that the transformers will be supplying a peak demand in excess of the installed firm capacity and would therefore overload under loss of one of the two transformers. Also, the loss of either one of the 3x132 kV lines from Proteus to Blanco will result in the other two lines overloading. The loss of the Blanco-Knysna 132 kV line currently results in low voltages at Knysna Substation. One of the 3x132kV lines from Proteus to Blanco has been in operation for 23yrs and is about to reach its 25yr life expectancy and will require refurbishment.</p> <p>In order to resolve all of the above constraints, the recommended solution is to establish a new 400/132 kV Blanco (Narina) Substation in the area. It is the least life cycle cost solution, is sufficient over the 20 year planning window period and will reduce overall network system losses.</p> <p>Gourikwa – Blanco 400 kV line and Blanco – Droërivier 2nd 400 kV line – triggered in 2013 by Eskom Peaking Generation due to generation integration requirements</p> <p>At Gourikwa Power Station, the power output will be increased via the CCGT Conversion Project which will convert 5 x existing OCGT units at each station to CCGT. This will entail the installation of Heat Recovery Steam Generators (HRSG) that will use the heat from the exhausts of the gas turbines to create steam. The steam from the HRSGs will be used to drive two new steam turbines, leading to increased cycle efficiency. The resultant output per CCGT unit will be 225 MW comprising of 150 MW (gas turbine) + 75 MW (steam recovery). Additional Transmission network infrastructure is therefore required to enable an increase in power output in order to ensure compliance in accordance with the Grid Code.</p> <p>The problematic double contingencies related to Power Station Grid Code compliance at Gourikwa are the loss of the:</p> <ul style="list-style-type: none"> • Gourikwa-Proteus 1 and 2 400 kV lines. This results in the islanding of the Gourikwa Power Station. • Proteus – Bacchus and Droërivier – Blanco 400 kV lines. This results in the islanding of the Gourikwa Power Station together with Blanco and

No.	Issue/ Comment	Issue/comment Raised By	Response
			<p>Proteus Transmission Substations.</p> <p>In order to ensure that Gourikwa is Grid Code compliant, a 3rd line needs to be built out of the facility i.e. Gourikwa – Blanco 400 kV line and Blanco – Droërvier 2nd 400 kV line</p> <p>There is also a potential for renewable energy and gas powered IPPs in the area that will require this infrastructure. An added benefit of these lines is that it will reduce the risk of major outages in the broader area during maintenance of the existing Transmission lines.</p> <p>The need date is dependent on the commitment from the generation project/s.</p>
	<p>[24] The above quoted response received from the EAP only serves to provide further evidence that the environmental applications are complex and difficult to understand. Again, the EAP has neglected and refused to provide details regarding the strategic planning context of the Applications in a manner which will be understandable to the average reader.</p>		<p>This is explained in detail in point 23.</p>
	<p>[25] 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. [26] We will deal in more detail with the legislative scheme in the paragraphs that follow.</p>		<p>Comment noted</p>
	<p>Legislative Scheme: (point 27-62)</p> <p>Planning Legislation</p> <p>[27] In terms of Item 3(e) of Appendix 3, it is a mandatory requirement that the Draft EIA Reports must contain a description of the policy and legislative context(s) as well as an explanation of how the projects comply with and respond to the legislation and policy context. 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 EIA Reports do not at all comply with this requirement. The EAP responded to the afore-mentioned comments by stating that Chapter 3 of the draft Scoping Report provided a clear description of the policy and legislative context applicable to the projects. For the reasons stated herein, as well as</p>		<p>Chapter 3 of the Scoping Reports gives a clear description of the policy and legislative context applicable to these projects.</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	our Client's previous comments, this statement by the EAP is denied and it is submitted that the mandatory requirements contained in the EIA Regulations have not been complied with.		
	[28] Our Client submits that the Draft EIA Reports must also deal with the legislation providing for spatial planning and land use. The Scoping Reports failed to do so as does the Draft EIA Reports.		This comment is noted, Chapter 3 of the EIA report has outlines the relevant legislative and permitting requirements applicable to the proposed project and clearly demonstrate the relevance of these legislation to the project.
	[29] 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>		Comment noted
	[30] 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>		Land development applications are not applicable for a powerline project; the exception is with for the approval of building plans (ie Control Room, which is not part of the scope of this project and therefore not applicable). Other applications to the municipality include applications for service (i.e. water, sewage and electricity), which is not applicable in this case as this is purely a overhead line project.
	[31] From the Draft Scoping Reports it appeared that the environmental applications were not submitted to the different local and district municipalities with jurisdiction as contemplated in SPLUMA. In response hereto the EAP provided the vague response that "all affected local and district municipalities with jurisdiction have been involved in these applications." Our Client submits that the mere involvement of a municipality in a public participation process does not constitute the submission of a land development application to such municipality as contemplated in Section 33(1) of SPLUMA.		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 EIA Report.
	[32] The reason why it is of specific importance that the description of the legislative context in the Draft EIA Reports should in some detail deal with the applicable planning legislation is because Eskom will require planning approvals from the municipalities, in terms of the applicable Municipal Planning By-Laws read with the applicable Zoning Scheme Regulations. Our Client submits that at least the land comprising the infrastructure including the footprints of the substations and pylons will have to be		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 servitude, due processes are followed if and when EA is issued, ie the other applicable requirements (ie permits) will be attended at a later stage post EIA phase.

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>rezoned to an appropriate zoning which provides for electricity infrastructure. In response to the aforementioned submissions, the EAP states that the projects will not require rezoning, due processes will be followed if and when an environmental authorisation is issued and that other applicable requirements will be attended to at a later stage after the Environmental Impact Assessment Phase. This statement is vague and unsubstantiated and does not enable Interested and Affected Parties to make informed decisions and submit proper comments. Our Client's rights in this regard are therefore severely prejudiced. Furthermore, the statement that the projects do not require rezoning is legally untenable and the EAP fails to provide any substantiation for this inaccurate and misleading statement.</p>		
	<p>[33] 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.'</p>		<p>Comment noted</p>
	<p>[34] Almost all properties impacted upon by the Eskom applications are zoned for agricultural purposes and our Client submits that the applicable zoning schemes do not allow infrastructure, such as the kind that Eskom proposes to erect, without the required planning approvals. It is inter alia for this reason that applications of this kind must be submitted with the different municipalities with jurisdiction.</p>		<p>This is a power line project; the line crossing over the land will not require rezoning of that land. The EIA only gives Eskom a right of servitude, due processes are followed if and when EA is issued, ie the other applicable requirements (ie permits) will be attended at a later stage post EIA phase.</p>
	<p>[35] In terms of Section 55(1) of the SPLUMA, only the Provincial Government or a municipality may apply to the Minister of Rural Development and Land Reform for exemption from the provisions of SPLUMA if it is in the public interest to do so. All Provincial Governments and municipalities with jurisdiction will have to apply for such exemptions. Eskom does not have any power to make such applications.</p>		<p>Land development applications are not applicable for a powerline project; the exception is with for the approval of building plans (ie Control Room, which is not part of the scope of this project and therefore not applicable). Other applications to the municipality include applications for service (i.e. water, sewage and electricity), which is not applicable in this case as this is purely a overhead line project.</p>
	<p>[36] In addition to the planning approvals required for the Eskom infrastructure, Eskom will also require an approval from the Head of the Department of Environmental Affairs and Development Planning, as envisaged in terms of Section 53(1) of the Land Use Planning Act 3 of 2014 (LUPA) or an exemption from the Provincial Minister. Section 53(5) provides as follows: '53(5) An approval by the Head of Department of a land development</p>		<p>Land development applications are not applicable for a powerline project; the exception is with for the approval of building plans (ie Control Room, which is not part of the scope of this project and therefore not applicable). Other applications to the municipality include applications for service (i.e. water, sewage and electricity), which is not applicable in this case as this is purely a overhead line project.</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p><i>application does not release an applicant from the obligation to obtain the required approval from the municipality for the land development.'</i></p>		
	<p>[37] Eskom and the EAP have furthermore neglected to properly refer the environmental applications to the Minister of Rural Development and Land Reform as required in terms of Section 52 of SPLUMA. In this regard the EAP states that such Minister is a registered Interested and Affected Party in the current processes. It is our Client's submission that the mere participation as an Interested and Affected Party by the Minister does not constitute a referral as contemplated in Section 52(1) of the SPLUMA referred to below.</p>		<p>Department of Agriculture, Rural Development and Land Reform is an identified I&APs for this project and has been informed of the project (refer to database I Appendix 4.1). Land development application is outside the scope of the EIA process.</p>
	<p>[38] Section 52(1) of SPLUMA provides as follows: <i>'52(1) Subject to the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), a land development application must be referred to the Minister where such an application materially impacts on—</i> <i>(a) matters within the exclusive functional area of the national sphere in terms of the Constitution;</i> <i>(b) strategic national policy objectives, principles or priorities, including food security, international relations and cooperation, defence and economic unity; or</i> <i>(c) land use for a purpose which falls within the functional area of the national sphere of government.'</i></p>		<p>Comment noted</p>
	<p>[39] It is important to note that electricity generation, transmission and distribution falls within the exclusive national competency of Government.</p>		<p>Comment noted</p>
	<p>[40] Our Client submits that it is incumbent upon Eskom and the EAP to explain the abovementioned legislative context, as prescribed in Item 3(e) of Appendix 3. Planning applications, i.e. rezoning, consent and departure applications can only be submitted by landowners. This is not addressed in the Draft EIA Reports. It is not sufficient for the EAP to state that "all other legislative requirements will be dealt with post EIA". This position of the EAP is in direct conflict with the mandatory requirements of the EIA Regulations.</p>		<p>The EIA process is one among many other processes that these projects must go through before its implementation; some of those processes are outside the scope of the EIA process hence the EAP's response that "all other legislative requirements will be dealt with post EIA. This does not part of the EIA process"</p>
	<p>[41] Furthermore, our Client submits that in all likelihood the title deeds of a large number of the involved properties and farms will contain title conditions which restrict the land use to that of Agriculture. Planning approvals cannot be granted in conflict of prevailing title conditions. Our Client therefore submits that Eskom will have to peruse all title deeds to ensure that the proposed land use is not in contravention thereof and will have to explain in some detail in the Draft Environmental Reports what the statutory requirements are for the removal of such restrictive title conditions.</p>		<p>These proposed line will not change the agricultural nature of the area, it's not the intention of these applications to change the zoning of the land. If needs be, proper protocols will be followed post EIA.</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>[42] Eskom will not be able to circumvent the aforementioned statutory requirements by means of expropriations.</p>		<p>These proposed line will not change the agricultural nature of the area, it's not the intention of these applications to change the zoning of the land. If needs be, proper protocols will be followed post EIA.</p>
	<p>[43] 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 applicable SDFs. The EAP fails to address this fact in its Response and merely makes the vague statement that <i>"The EIA process will ensure that these potential impacts are assessed and mitigated."</i></p>		<p>These proposed line will not change the agricultural nature of the area, it's not the intention of these applications to change the zoning of the land. If needs be, proper protocols will be followed post EIA.</p>
	<p>[44] Our Client also submits that the applicable SDF's specifically provide that valuable agricultural land should be protected, tourism promoted and that the heritage and visual landscapes be protected. The Eskom applications are in stark contrast with the aforementioned guidelines in the applicable SDFs.</p>		<p>This comment is agreed upon, and because these resources are viewed as being important for this environment, different specialists studies were commissioned as part of the EIA process to evaluate and assess the potential impact of the powerlines on these resources. The best alternative option with the least environmental impact on these resources is recommended for implementation.</p>
	<p>[45] As remarked above, Eskom's proposed infrastructure development constitutes 'land development' as envisaged in terms of the SPLUMA. Section 22(1) of SPLUMA provides as follows: <i>'22(1) A Municipal Planning Tribunal or any other authority required or mandated to make a land development decision in terms of this Act or any other law relating to land development, may not make a decision which is inconsistent with a municipal spatial development framework.'</i></p>		<p>Comment noted</p>
	<p>[46] Any planning application (i.e. rezoning, consent use or departure application) will have to be consistent with the applicable SDFs of the municipalities with jurisdiction. The EAP fails to address this issue in its Response. The Draft EIA Reports do not address this issue.</p>		<p>These proposed line will not change the agricultural nature of the area, it's not the intention of these applications to change the zoning of the land. Hence such application is outside the scope of the EIA process.</p>
	<p>[47] Section 19(2) and (3) of LUPA provides as follows:</p>		<p>Comment noted</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>"19(2) If a spatial development framework or structure plan does not specifically provide for the utilisation or development of land as proposed in a land use application or a land development application, but the proposed utilisation or development is not in conflict with the purpose of the relevant designation in the spatial development framework or structure plan, the utilisation or development is regarded as being consistent with that spatial development framework or structure plan.</p> <p>(3) If the proposed utilisation or development of land in a land use application or a land development application does not comply with and is not consistent with the relevant designation for the utilisation of land in an applicable spatial development framework or structure plan, the proposed utilisation or development deviates from that spatial development framework or structure plan."</p>		
	<p>[48] It is clear that the proposed utilisation of the land concerned deviates from the applicable SDFs, which will necessitate an amendment of the SDFs before the municipality with jurisdiction will be entitled to approve any planning application of Eskom.</p>		<p>These proposed line will not change the agricultural nature of the area, it's not the intention of these applications to change the zoning of the land. If needs be, proper protocols will be followed post EIA.</p>
	<p>NEMA</p> <p>[49] 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>[50] 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>[51] 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>[52] Section 23(1), (2)(b) and (c) provides as follows: '23(1) The purpose of this Chapter is to promote the application of appropriate environmental management tools in order to ensure the integrated environmental management of activities.</p> <p>[53] The mandatory minimum procedural requirements for an EIA of the kind in this matter, are contained in Section 24(4)(b)(i) which inter alia provides as follows: '24(4) Procedures for the investigation, assessment and communication of the potential consequences or impacts of activities on the environment -</p>		<p>Comments 49-53 are noted</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>[54] 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>		Comment is noted.
	<p>[55] 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>		Comment is noted.
	<p>[56] The EIA Regulations need to be interpreted and complied with within the framework of the aforementioned provisions of NEMA.</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>EIA Regulations [57] The regulatory framework which applies to the environmental applications of Eskom is that prescribed in the EIA Regulations. The environmental applications of Eskom are applications which are subject to Scoping and Environmental Impact Report (S&EIR).</p>		Comment is noted.
	<p>[58] In its previous comments on the Narina Application, our Client repeatedly complained that the EAP and Eskom failed to comply with various mandatory provisions of the Regulations as far as the contents of the Draft Environmental Reports are concerned. Eskom has failed to respond to such complaints. The EAP merely states that such project has no bearing on these projects. In this regard the Competent Authority is referred to our comments at paragraph 19 and 20 above which for purposes of brevity we shall not repeat. Suffice to emphasise that these two subject projects, together with the Narina Application cannot be considered separately.</p>		Comment noted, the consultant has been informed by Eskom that all comments received on the Narina-Blanco Application were responded to in the Comments and Response Report of that report
	<p>[59] Regulation 23(3) and Item 3(e), (f) and (h) of Appendix 3 state as follows: <i>"3. An environmental impact assessment report must contain the</i></p>		The EIA Report has included all information required in terms of the Appendix 3 of the EIA Regulations. The DEA has accepted both the applications as they meet these requirements.

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>information that is necessary for the competent authority to consider and come to a decision on the application, and must include –</p>		
	<p>[60] The EAP states in its Response that "the Scoping Report included all information required in terms of the Regulations." For the reasons stated below, as well as in our Client's previous comments, this statement of the EAP is misleading and untrue.</p>		<p>The EIA Report has included all information required in terms of the Appendix 3 of the EIA Regulations. The DEA has accepted both the applications as they meet these requirements.</p>
	<p>[61] It is to be noted that the prescribed contents of environmental impact assessment reports are mandatory and leave no discretion to the EAP or Eskom.</p>		<p>The EAP is aware of this requirement, accordingly this scoping report is aligned to the Environmental Impact Assessment Regulations, 2014 (Appendix 2).</p>
	<p>[62] As far as non-compliance with Item 3(e) is concerned (legislative context), we refer to what we have stated in Paragraph 27 above.</p>		<p>As per the previous response on this matter, Chapter 3 of the Scoping Reports gives a clear description of the policy and legislative context applicable to these projects. The reports have been drafted to comply with the EIA regulation; it must note that these scoping reports have been previously accepted by the competent authority (DEA) for this application. This Department is responsible for environmental policy and is the controlling authority in terms of NEMA and the EIA Regulations.</p>
	<p>Non-compliance with the NEMA: (point 63-89)</p> <p>Lack of Information</p> <p>[63] As far as the disclosure of information is concerned, the EIA Regulations impose certain mandatory duties on the EAP. Reference is made to Regulation 13(1)(f), which states as follows: '13(1) An EAP and a specialist, appointed in terms of regulation 12 (1) or 12 (2)....'</p>		<p>The EIA Report has included all information required in terms of the Regulations.</p>
	<p>[64] 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. The EAP responded to the aforementioned submissions by stating that "Eskom have indicated that the Eskom Planning Reports cannot be made available in the public</p>		<p>Eskom have indicated that the Eskom Planning Reports are confidential documents and cannot be made available in the public domain. The best techno-economical option was chosen. However, Eskom Transmission Development Plan can be downloaded directly from the following Eskom website http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf. Key information regarding Eskom Transmission Grid Planning study is provided in Chapter 2 of the EIA Report, extracts of the planning documents have been provided in the report.</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>domain. The best techno-economical option was chosen." Our Client submits that the study prepared by the Eskom Transmission Grid Planning Unit constitutes material information which may influence the rights of our Client as well as may have an impact on the decision-making process of the Competent Authority. The failure of Eskom to provide this study constitutes a material flaw in the Environmental Application Process, with the result that rights of Interested and Affected Parties are severely prejudiced.</p>		<p>In summary: <u>Blanco (Narina) 400/132 kV Substation and Loop-in Lines</u> - triggered in 2010 by Eskom Distribution due to local load requirements</p> <p>Eskom Transmission Grid Planning initiated a study in 2012 to investigate possible solutions to address transformation constraints at Proteus Substation as well as the sub-transmission constraints experienced on the network supplying the Blanco area.</p> <p>The load forecast for Proteus Substation indicated that the transformers will be supplying a peak demand in excess of the installed firm capacity and would therefore overload under loss of one of the two transformers. Also, the loss of either one of the 3x132 kV lines from Proteus to Blanco will result in the other two lines overloading. The loss of the Blanco-Knysna 132 kV line currently results in low voltages at Knysna Substation. One of the 3x132kV lines from Proteus to Blanco has been in operation for 23yrs and is about to reach its 25yr life expectancy and will require refurbishment.</p> <p>In order to resolve all of the above constraints, the recommended solution is to establish a new 400/132 kV Blanco (Narina) Substation in the area. It is the least life cycle cost solution, is sufficient over the 20 year planning window period and will reduce overall network system losses.</p> <p><u>Gourikwa – Blanco 400 kV line and Blanco – Droërvier 2nd 400 kV line</u> – triggered in 2013 by Eskom Peaking Generation due to generation integration requirements</p> <p>At Gourikwa Power Station, the power output will be increased via the CCGT Conversion Project which will convert 5 x existing OCGT units at each station to CCGT. This will entail the installation of Heat Recovery Steam Generators (HRSG) that will use the heat from the exhausts of the gas turbines to create steam. The steam from the HRSGs will be used to drive two new steam turbines, leading to increased cycle efficiency. The resultant output per CCGT unit will be 225 MW comprising of 150 MW (gas turbine) + 75 MW (steam recovery). Additional Transmission network infrastructure is therefore required to enable an increase in power output in order to ensure compliance in accordance with the Grid Code.</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
			<p>The problematic double contingencies related to Power Station Grid Code compliance at Gourikwa are the loss of the:</p> <ul style="list-style-type: none"> • Gourikwa-Proteus 1 and 2 400 kV lines. This results in the islanding of the Gourikwa Power Station. • Proteus – Bacchus and Droërvier – Blanco 400 kV lines. This results in the islanding of the Gourikwa Power Station together with Blanco and Proteus Transmission Substations. <p>In order to ensure that Gourikwa is Grid Code compliant, a 3rd line needs to be built out of the facility i.e. Gourikwa – Blanco 400 kV line and Blanco – Droërvier 2nd 400 kV line</p> <p>There is also a potential for renewable energy and gas powered IPPs in the area that will require this infrastructure. An added benefit of these lines is that it will reduce the risk of major outages in the broader area during maintenance of the existing Transmission lines.</p> <p>The need date is dependent on the commitment from the generation project/s.</p>
	<p>[65] Our Client submits further 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. From the response of the EAP it is evident that the EAP is not in possession of the study. It therefore follows that the EAP, in preparing the Draft EIA Reports, merely acted on the dictates of Eskom. This is contravention of Regulation 13(1) which provides that an EAP must be independent.</p>		<p>Please refer to point 64</p>
	<p>[66] 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</i></p>		<p>Noted</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>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.</p> <p>When all three options were technically evaluated, the line into Droërivier 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 Droërivier – Proteus 400 kV line as per the Technical Development Plan. For the Gourikwa-Blanco option, a 400 kV Transmission line from Gourikwa to Blanco (which is the next closest load centre) will have to be established."</p>		
	<p>[67] In terms of Item 2(h)(i) of Appendix 2, the Draft Environmental Reports must give a full description of the process followed to reach the proposed preferred activity. Details of all alternatives considered must be disclosed. We will deal in more detail with non-compliance as far as alternatives are concerned below. Eskom and the EAP will have to provide the competent authority and Interested and Affected Parties with details and proof of the investigations undertaken with full disclosure of the content thereof and a proper motivation why no other potential alternatives exist. All strategic documents and information must be made available to Interested and Affected Parties.</p>		<p>Please refer to point 64</p>
	<p>[68] The manner in which Eskom has processed its environmental applications to date totally undermines the Public Participation Process. Regulation 40(2) provides as follows:</p> <p><i>"(2) The public participation process contemplated in this regulation must provide access to all information that reasonably has or may have the potential to influence any decision with regard to an application unless access to that information is protected by law and must include consultation with—</i></p>		<p>Details of the public participation process undertaken in terms of regulation 41 of the EIA Regulations are included in Appendix 4.1 of the EIA Reports</p>
	<p>[69] Regulation 14(5)(a) and (b) inter alia deals with the instance where an EAP refuses or neglects to disclose material information.</p> <p><i>"14(5) If, after considering the matter, there is reason for the competent authority to believe that there is noncompliance with regulation 13 by the</i></p>		<p>The EAP has disclosed all information at hand applicable to this project, and in no instance has the EAP refused to furnish I&APs additional requested information. As explained in previous points, Eskom have indicated that the Eskom Planning Reports are confidential documents and cannot be made available in the public domain. The best techno-</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>EAP or specialist, the competent authority must, in writing, inform the interested and affected party who notified the competent authority in terms of subregulation (2), the EAP or specialist and the applicant accordingly and may"</p>		<p>economical option was chosen. However, Eskom Transmission Development Plan can be downloaded directly from the following Eskom website http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf.</p> <p>Key information regarding Eskom Transmission Grid Planning study is provided in Chapter 2 of the EIA Report, extracts of the planning documents have been provided in the report.</p> <p>It is the opinion of the EAP that the information provided by Eskom (as detailed in the EIA report) is more than enough information explaining the purpose and scope of the project.</p>
	<p>[70] Due to the fact that the instances of non-compliance regarding alternatives, as highlighted by our Client previously, have to date not been addressed or remedied, we shall repeat our Client's previous submissions in this regard as they are still valid and bear due consideration. Where necessary our Client's reactions will be provided to responses received from the EAP.</p>		<p>Noted</p>
	<p>[71] Reference is made to Item 2(h)(i) of Appendix 2. In addition to what we have stated above regarding the absence of material information in respect of alternatives, our Client submits that the Draft Environmental Reports lack a full description of the process followed to reach the proposed preferred activity and the details of all alternatives considered.</p>		<p>Chapter 2 of the EIA Reports gives background description of the alternatives considered for the EIA applications.</p>
	<p>[72] Our Client submits that it was incumbent upon Eskom to identify all potential alternatives and then to assess those alternatives which are considered to be reasonable and feasible. The EIA Guideline and Information Document Series (Guideline on Alternatives) of the Western Cape Department of Environmental Affairs and Development Planning contains the following guideline as far as the identification and investigation of alternatives are concerned:</p> <p><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</i></p>		<p>Chapter 2 of the EIA Reports gives background description of the alternatives considered for the EIA applications.</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	<i>must be provided.'</i>		
	<p>[73] following guidelines as far as alternatives are concerned are contained in Guideline 5: Assessment of Alternatives and Impacts of the Department of Environmental Affairs:</p> <p><i>'I&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>		Comment noted
	<p>[74] The fact that the Gourikwa or Droërivier substations may already exist, is no reason why Eskom is not obliged to identify and assess other alternatives. Furthermore, the mere existence of current infrastructure does not constitute a 'motivation' as envisaged in terms of Item 2(h)(x) of Appendix 2 for not consideration alternatives.</p>		The existing infrastructure needs to be expanded, these projects fall as part of those envisaged expansions.
	<p>[75] 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>		Chapter 2 of the EIA Reports gives background description of the alternatives considered for the EIA applications.
	<p>[76] The Regulations oblige the EAP and Eskom to provide a reasoned motivation why alternatives identified as potential alternatives were not considered to be reasonable and feasible. This is not a matter which is at all in the discretion of Eskom or EAP.</p>		Alternatives as well as "no go options are proposed and these have been assessed in the EIA report
	<p>[77] Our Client furthermore submits that all identified potential alternatives must be "comparatively considered" and then those alternatives found to be "feasible and reasonable" must be "comparatively assessed". Interested and affected parties must then be afforded an opportunity to provide comments on the aforementioned comparative considerations and assessments.</p>		Alternatives as well as "no go options are proposed and these have been assessed in the EIA report
	<p>[78] The failure of the EAP to comply with the above provisions relating to alternatives is emphasised when regard is had to the following response received from the EAP:</p> <p><i>"During the detailed design phase of the project, the exact positioning</i></p>		Two alternatives were proposed by Eskom, and those two alternatives are assessed as part of the Impact Assessment.

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>and placement of the substation and associated pylons will be finalized in conjunction with any affected landowners."</p>		
	<p>[79] In Response to the above, the EAP states that alternatives referred to in vague terms in the draft scoping reports will be further assessed in the EIA phase in consultation with the various stakeholders as well as specialist studies. It is furthermore stated by the EAP that alternatives will be further assessed in the Environmental Impact Assessment by the appointment of independent specialists which will assess the alternatives after which those that are found and considered to be viable, feasible and reasonable will be presented to all registered, interested and affected parties during the Environmental Impact Assessment process.</p>		<p>Noted</p>
	<p>[80] Our Client submits that the abovementioned proposed cause of action of the EAP constitutes a total collapse of the Environmental Impact Assessment process as provided for in Part 3 of the EIA Regulations. It was incumbent upon Eskom to provide full particulars of alternatives and to comply with the abovementioned provisions pertaining to alternatives during the scoping process. It is not competent for Eskom or the EAP to attempt to rectify the materially flawed process in relation to alternatives at this late stage during the Environmental Impact Report Phase.</p>		<p>Two alternatives were proposed by Eskom, and those two alternatives are assessed as part of the Impact Assessment.</p>
	<p>Need and Desirability</p> <p>[81] In terms of Item 2(f) of Appendix 2, a description of the need and desirability in any environmental reports is also a mandatory requirement.</p>		<p>The scoping reports have complied with Item 2(f) of Appendix 2, as this aspect is dealt with in Chapter 2 of the Scoping Reports</p>
	<p>[82] The need and desirability of the proposed activity is described in the Draft Environmental Reports exclusively with reference to the Eskom Transmission Grid Planning study. As remarked above, Eskom is obliged to disclose the Eskom study as such study is pivotal to a proper understanding of the need and desirability of the project and also the identification of alternatives. The contents of the Grid Planning Study will afford Interested and Affected Parties an opportunity to know whether all potential alternatives have been identified and to understand the reasoning process why only certain of those potential alternatives were considered to be reasonable and feasible. Our Client submits that this is a fatal flaw to the environmental applications of Eskom.</p>		<p>Eskom have indicated that the Eskom Planning Reports are confidential documents and cannot be made available in the public domain. The best techno-economical option was chosen. However, Eskom Transmission Development Plan can be downloaded directly from the following Eskom website http://www.eskom.co.za/Whatweredoing/TransmissionDevelopmentPlan/Documents/TransDevPlan2016-2025Brochure.pdf. Key information regarding Eskom Transmission Grid Planning study is provided in Chapter 2 of the EIA Report extracts of the planning documents have been provided in the report.</p> <p>In summary: <u>Blanco (Narina) 400/132 kV Substation and Loop-in Lines</u> - triggered in 2010 by Eskom Distribution due to local load requirements Eskom Transmission Grid Planning initiated a study in 2012 to investigate</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
			<p>possible solutions to address transformation constraints at Proteus Substation as well as the sub-transmission constraints experienced on the network supplying the Blanco area.</p> <p>The load forecast for Proteus Substation indicated that the transformers will be supplying a peak demand in excess of the installed firm capacity and would therefore overload under loss of one of the two transformers. Also, the loss of either one of the 3x132 kV lines from Proteus to Blanco will result in the other two lines overloading. The loss of the Blanco-Knysna 132 kV line currently results in low voltages at Knysna Substation. One of the 3x132kV lines from Proteus to Blanco has been in operation for 23yrs and is about to reach its 25yr life expectancy and will require refurbishment.</p> <p>In order to resolve all of the above constraints, the recommended solution is to establish a new 400/132 kV Blanco (Narina) Substation in the area. It is the least life cycle cost solution, is sufficient over the 20 year planning window period and will reduce overall network system losses.</p> <p><u>Gourikwa – Blanco 400 kV line and Blanco – Droërivier 2nd 400 kV line – triggered in 2013 by Eskom Peaking Generation due to generation integration requirements</u></p> <p>At Gourikwa Power Station, the power output will be increased via the CCGT Conversion Project which will convert 5 x existing OCGT units at each station to CCGT. This will entail the installation of Heat Recovery Steam Generators (HRSG) that will use the heat from the exhausts of the gas turbines to create steam. The steam from the HRSGs will be used to drive two new steam turbines, leading to increased cycle efficiency. The resultant output per CCGT unit will be 225 MW comprising of 150 MW (gas turbine) + 75 MW (steam recovery). Additional Transmission network infrastructure is therefore required to enable an increase in power output in order to ensure compliance in accordance with the Grid Code.</p> <p>The problematic double contingencies related to Power Station Grid Code compliance at Gourikwa are the loss of the:</p> <ul style="list-style-type: none"> • Gourikwa-Proteus 1 and 2 400 kV lines. This results in the islanding of the Gourikwa Power Station. • Proteus – Bacchus and Droërivier – Blanco 400 kV lines. This results

No.	Issue/ Comment	Issue/comment Raised By	Response
			<p>in the islanding of the Gourikwa Power Station together with Blanco and Proteus Transmission Substations.</p> <p>In order to ensure that Gourikwa is Grid Code compliant, a 3rd line needs to be built out of the facility i.e. Gourikwa – Blanco 400 kV line and Blanco – Droërvier 2nd 400 kV line</p> <p>There is also a potential for renewable energy and gas powered IPPs in the area that will require this infrastructure. An added benefit of these lines is that it will reduce the risk of major outages in the broader area during maintenance of the existing Transmission lines.</p> <p>The need date is dependent on the commitment from the generation project/s</p>
	<p>[83] The concept of need and desirability can be explained in terms of the meaning of its two components in which “need” refers to time and “desirability” refers to place. Put differently, is this the right time and is it the right place for locating the type of activity proposed by Eskom.</p>		<p>Careful consideration is given to the entire portfolio of the Eskom Transmission Projects. If an opportunity arises to defer projects, then Eskom will take this into considerations. In this instance due to the current 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.</p>
	<p>[84] Our Client and Interested and Affected Parties simply cannot know or ascertain what the need and desirability of the alternatives are in the absence of the Eskom study. It appears that the Eskom Transmission Grid Planning Study was produced during 2012, in other words before the start of the Environmental Application process.</p>		<p>Eskom have indicated that these reports cannot be made available in the public domain due to confidentiality reasons. However, the key information regarding the points raised is provided in Chapter 2 of the EIAReport.</p>
	<p>[85] The desirability of the proposed activity turns on the “placing” thereof. The question is whether the proposed activity is the best practicable environmental option for the specific sites. As remarked above, according to the NEMA the “best practicable environmental option” means the option that provides the most benefit and causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term. In determining the best practical environmental option, adequate consideration must also be given to opportunity cost.</p>		<p>Comment noted</p>
	<p>[86] 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</p>		<p>Table 12 in Chapter 7 of the EIA report 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</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>submits that the Eskom development proposal is inconsistent with the SDFs of the relevant municipalities which has the consequence, in terms of Section 22 of LUPA, that the involved municipalities will not be able to grant any planning approval, including any rezoning of any property, unless the relevant SDF has been properly amended to designate the land concerned for purposes of Eskom infrastructure. Our Client therefore submits that in the current circumstances it is not possible for Eskom to properly motivate the need and desirability of the proposed development, especially in the absence of material information not being included in the Draft Environmental Reports.</p>		<p>other legislative requirements will be dealt with post EIA. These applications do not form part of the EIA process.</p>
	<p>[87] In terms of Item 3(d) of Appendix 3, the Draft EIA Reports must contain a description of the scope of the proposed activities including 'associated structures and infrastructure'. The Draft EIA Reports do not properly describe what associated structures or infrastructure would be required and disclose relevant information.</p>		<p>Associated structures and infrastructure are described in Chapter 2 of the EIA Report under section 2.4.1 (Infrastructural description).</p>
	<p>[88] In an attempt to address the issue of need and desirability of the proposed projects the EAP attached a document of Eskom entitled "Transmission Ten-Year Development Plan 2012-2021" to the Draft EIA Reports (Annexures 6.3 to both respective Draft EIA Reports). The purpose of such plan (the Eskom Plan) is described as follows in its Executive Summary: "The Transmission Division of Eskom Holdings has the responsibility of developing the transmission network. The publication of the Transmission Ten-Year Plan is to inform stakeholders about Eskom's plans for the development of the transmission network. This publication fulfils the requirements of the South African Grid Code, which requires the Transmission Network Service Provider (TNSP) to publish plans annually on how the network will develop."</p> <p>[89] From the above it is clear that the purpose of the Eskom Plan relates to the developing of the electricity transmission network and to keep stakeholders informed of developments in such regard. From a reading of such Eskom Plan it is evident that it does not relate at all to the requirements of need and desirability as contemplated in the NEMA and EIA Regulations. The Draft EIA Reports contain only vague reference to such Eskom Plan and do not provide any explanation of how it applies and relates to the requirements of the NEMA and EIA Regulations pertaining to need and desirability.</p>		<p>Careful consideration is given to the entire portfolio of the Eskom Transmission Projects. If an opportunity arises to defer projects, then Eskom will take this into considerations. In this instance due to the current 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.</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>Vested Rights (points 90-104)</p> <p>[90] The vested land use rights of the Client have not been dealt with in the Environmental Application of Eskom, but were totally disregarded. This constitutes a fatal flaw to the Environmental Application of Eskom.</p>		<p>The EIA application is merely a planning tool for potential future developments, only when the project is approved can Eskom consider the vested land use rights of individual landowner through engagement with affected landowners. Once more it must be noted that it's not the intention of these applications to change the current zoning of the land. If needs be, proper protocols will be followed post EIA.</p>
	<p>[91] The Draft Environmental Reports represent that all properties are zoned for agricultural purposes. This constitutes a misrepresentation as far as our Client's properties are concerned.</p>		<p>The EIA application is merely a planning tool for potential future developments, only when the project is approved can Eskom consider the vested land use rights of individual landowner through engagement with affected landowners. Once more it must be noted that it's not the intention of these applications to change the current zoning of the land. If needs be, proper protocols will be followed post EIA.</p>
	<p>[92] We attach hereto as Annexure A, a rezoning approval of the then Provincial Administration of the Cape of Good Hope, dated 11 August 1993, in which the rezoning of Portions 1 and 3 of the Farm 318, from Agricultural Zone 1 to Resort Zone II, for the development of 50 holiday accommodation units was approved. The aforementioned approval was granted in terms of Section 16 of the Land Use Planning Ordinance No. 15 of 1985, subject to various conditions. We specifically refer to Condition 1.4, which states as follows:</p> <p>[93] The first units were duly constructed, infrastructure installed and the land use rights locked-in.</p>		<p>The EIA application is merely a planning tool for potential future developments, only when the project is approved can Eskom consider the vested land use rights of individual landowner through engagement with affected landowners. Once more it must be noted that it's not the intention of these applications to change the current zoning of the land. If needs be, proper protocols will be followed post EIA.</p>
	<p>[94] The layout of the approved Resort Zone II units is indicated on Annexure B attached hereto. The competent authority is specifically alerted to the fact that the power line has been proposed almost immediately adjacent to the resort units. The competent authority needs to be mindful of the critical fact that no servitudal rights exist in favour of Eskom over our Client's properties. Our Client records that in view of its vested land use rights, that it will not be amenable to grant any consent to Eskom to register any kind of servitude over its properties. The Client will resist and challenge any attempt by Eskom or the National Government to expropriate any servitude or land owned by the Client.</p>		<p>Eskom servitude will only be registered after the receipt of the EA. Eskom appoints the independent Professional valuer to evaluate the affected property. Then the valuer contacts the rightful landowner and visit the property to compile the valuation report that will determine the compensation to be paid. Eskom representative visits the landowner to negotiate with the landowner for the acquisition of the servitude. Once the landowner signs the Option to acquire the servitude the process of servitude registration commences. Servitude registration takes about six months. The compensation will be paid after the registration</p>
	<p>[95] 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.</p> <p><i>"25(1) No one may be deprived of property except in terms of law of</i></p>		<p>Comment noted</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>general application, and no law may permit arbitrary deprivation of property. (2) Property may be expropriated only in terms of law of general application- (a) for a public purpose or in the public interest; and (b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court. (3) The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances..."-</p> <p>The primary use rights which attach to a property in terms of a Resort Zone II zoning, is that of "holiday housing", which is defined in the Scheme Regulations applicable to the property as follows: "Holiday housing" means a harmoniously designed and built holiday development with an informal clustered layout which may include the provision of a camping site, mobile homes or dwelling units, and where the housing may be rented out or may be separately alienated by means of time sharing, sectional title division, the selling of block shares or the subdivision of the property on condition that a home owners' association be established, but does not include a hotel or motel."</p>		
	<p>[96] As set out above, our Client will not consent to any servitude which may be required by Eskom over its property. Apart from the instance of actual expropriation, our Client submits that the implementation of the Eskom proposal over its properties will effectively result in a constructive expropriation of the Resort Land Use Rights, which attach to Portion 1 and 3. Such opportunity cost will in the circumstances be totally irrational and at a cost totally unacceptable to society in the long term as well as the short term. The Client therefore submits that the alternatives proposed are not the "best practical environmental option".</p>		<p>Should the property be affected by the servitude, a professional independent land valuer will be appointed to conduct the Strip and Specific Valuation reports. The landowner will meet the Eskom negotiator to discuss the valuation report, and the specific valuation will indicate the difference between the values of the property before the powerline is constructed, and after construction has occurred. The 'willing-to-sell, willing-to-buy' rule will also apply, which means that Eskom is willing to buy the property at the market value based on the valuation report done by the independent valuer.</p>
	<p>[97] Our Client submits that the alignment of the power lines will make the sustainable development of the resort units impossible. Eskom is a state owned utility which must comply with the Occupational Health and Safety Act 85 of 1993, as well as the applicable management systems in accordance with ISO 9001, ISO14001 and the OHSAS 1800 requirements. Our Client submits that Eskom will not be able to implement any of the</p>		<p>ESKOM will have to comply with all relevant rules and regulations. During the detailed design phase of the project, the exact positioning and placement of the substation and associated pylons will be finalized in conjunction with any affected landowners. It should also be noted that due to the fact that the proposed powerline is a short distance, fewer pylons will be required (to be confirmed during detailed design).</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>alternatives consistent with the aforementioned legislation and systems</p> <p>[98] In view of the fact that the alternatives will be implemented substantially in a residential resort, it will have far reaching occupational health and safety consequences as far as adverse impacts of electrical and magnetic fields are concerned, as well as the general safety of humans living in the resort.</p>		<p>A detailed Construction and Operational Management Plan (COEMP) has been compiled as part of the process, which will now be updated to include all the specific conditions, as well as detail design aspects as soon as they are available. This will be strictly implemented on the site during construction and operation. This COEMP was submitted as part of the EIA process, and has been accepted by the DEA.</p>
	<p>[99] Should Eskom's environmental application be approved, our Client will be entitled to constitutional compensation as envisaged in terms of Section 25(3) of the Constitution. The competent authority is specifically alerted to the fact that the current Land Use Rights of the properties, as well as the market value thereof, constitutes relevant factors which will determine the compensation to which the appellant will be entitled to in terms of Section 25(3) of the Constitution.</p>		<p>Should the property be affected by the servitude, a professional independent land valuer will be appointed to conduct the Strip and Specific Valuation reports. The landowner will meet the Eskom negotiator to discuss the valuation report, and the specific valuation will indicate the difference between the values of the property before the powerline is constructed, and after construction has occurred. The 'willing-to-sell, willing-to-buy' rule will also apply, which means that Eskom is willing to buy the property at the market value based on the valuation report done by the independent valuer.</p>
	<p>[100] As far as Constitutional compensation is concerned, reference is made to condition 1.4 of the Rezoning Approval of 11 August 1993, which obliged the landowner to first construct the Geelhoutboom Dam prior to utilising the property in terms of the zoning. The Geelhoutboom Dam constitutes the natural source of the Resort and had to be constructed before our Client's predecessor in title could proceed with the implementation of the full extent of its resort rights. Our Client records that the total construction costs of the Geelhoutboom Dam at the time of its construction already exceeded R12 000 000,00.</p>		<p>Should the property be affected by the servitude, a professional independent land valuer will be appointed to conduct the Strip and Specific Valuation reports. The landowner will meet the Eskom negotiator to discuss the valuation report, and the specific valuation will indicate the difference between the values of the property before the powerline is constructed, and after construction has occurred. The 'willing-to-sell, willing-to-buy' rule will also apply, which means that Eskom is willing to buy the property at the market value based on the valuation report done by the independent valuer.</p>
	<p>[101] 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. This is confirmed when regard is had to the following response of the EAP:</p> <p><i>"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."</i></p>		<p>Please note that the quoted statement is immensely misinterpreted in every way. Landowners form the focal point of these applications and their vested rights have been taken into considerations throughout the whole EIA process. Every means of communication tool as prescribed by the regulation and beyond have been used to involve the potentially affected landowners in these applications.</p> <p>These interactions with the landowners are recorded in the public participation process section of the EIA report. Section 4.3 also gives a summary of concerns from landowners. Furthermore different specialist studies (i.e. Social, Socio-economic and Visual impact studies) were conducted that mostly focussed on the impacts of that proposed line will have on landowners. These studies made recommendations of the alignment with the least from each perspective.</p>

No.	Issue/ Comment	Issue/comment Raised By	Response
	<p>The above statement of the EAP is misdirected and inaccurate. Our Client submits that its vested land use rights form a material and integral consideration which the EAP must take into consideration during the Environmental Application Process and not once environmental authorisation (if any is granted). It is furthermore submitted that it is essential that individual landowners be consulted and engaged with during the Environmental Application Processes. This approach of the EAP not to consider vested land use rights and not to engage with landowners results in the Environmental Application Process being flawed.</p>		<p>Having said this, the process of engaging with landowners also goes beyond the EIA process as each impacted landowner must be consulted for servitude negotiations.</p>
	<p>[102] Our Client submits that the significant adverse impact on its Constitutional Property Rights, should have informed the identification and consideration of alternatives in material respects. This was not done in this matter. The manner, in which the proposed activities might affect our Client's property rights, has not been identified or considered or taken into consideration when the impact of the proposed activity was assessed.</p>		<p>Social, Socio-economic and Visual impact studies that were conducted for this project has assessed the significant adverse impact the line may have on landowner properties, the alignment with the least impact has been recommended.</p>
	<p>[103] Our Client submits that the desirability of the proposed activity will also be significantly affected in view of the infringement on its Constitutional Property Rights and that all identified impact must be assessed against the current vested rights of our Client.</p>		<p>Social, Socio-economic and Visual impact studies that were conducted for this project has assessed the significant adverse impact the line may have on landowner properties, the alignment with the least impact has been recommended.</p>
	<p>[104] 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 either the EAP or Eskom, nor was it dealt with in the Environmental Reports of Eskom.</p>		<p>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</p>
	<p>[105] For the reasons stated above, our Client submits that the Draft EIA Reports are fatally flawed and the competent authority cannot in terms of Regulation 24(1)(a) grant environmental authorisation in respect of all or any part of the activities applied for.</p>		<p>It is the opinion of the EAP that the Draft EIA report has been compiled in line with Appendix 3 of the 2014 EIA Regulations as demonstrated in Table 2 (Compliance section) of the Draft EIA report.</p> <p>The EIA report has 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. It is the opinion of the EAP</p>

<u>No.</u>	<u>Issue/ Comment</u>	<u>Issue/comment Raised By</u>	<u>Response</u>
			that the EIA reports has provided the environmental authorities with sufficient information to make an informed decision regarding the proposed project.