

Application for Amendment of Environmental Authorisation



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Application for amendment of an environmental authorisation in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended, and the Environmental Impact Assessment Regulations 2014

Kindly note that:

1. This form must be used to apply for the amendment of an environmental authorisation. An amendment includes:
 - a) adding, substituting, removing or changing a condition or requirement of an environmental authorisation, or
 - b) updating or changing any details or correcting a technical error.
2. This form is current as of 08 December 2014. It is the responsibility of the Applicant / EAP to ascertain whether subsequent versions of the form have been published or produced by the competent authority.
3. The required information must be typed within the spaces provided in the form. The sizes of the spaces provided are not necessarily indicative of the amount of information to be provided. It is in the form of a table that can extend itself as each space is filled with typing.
4. Incomplete applications may be rejected or returned to the applicant for amendment.
5. The use of "not applicable" in the form must be done with circumspection. Where it is used in respect of material information that is required by the competent authority for assessing the application, this may result in the rejection of the application as provided for in the regulations.
6. **No faxed or e-mailed applications will be accepted.**
7. Unless protected by law, all information contained in and attached to this application, will become public information on receipt by the competent authority. Upon request during any stage of the application process, the applicant / EAP must provide any registered interested and affected party with the information contained in and attached to this application.
8. This form must be submitted to the Department at the postal address given below or by delivery thereof to the Registry Office of the Department. Should the application form and attached reports not be submitted to the addresses given below it will be rejected.
9. Proof of payment of the prescribed fee of R2000 must accompany the submission of this form, unless an exclusion applies (see section 1 below). The application will not be processed without proof of payment unless one of the exclusions provided for in the fee Regulations is applicable AND such information in the exclusion section of this application form has been confirmed by this Department.

Application for Amendment of Environmental Authorisation

DEPARTMENTAL DETAILS

Postal address:

Department of Environmental Affairs
Attention: Director: Integrated Environmental Authorisations

Private Bag X447
Pretoria
0001

Physical address:

Department of Environmental Affairs
Attention: Director: Integrated Environmental Authorisations
Environment House
473 Steve Biko Road
Arcadia
Pretoria

Queries must be directed to the Directorate: Integrated Environmental Authorisations at:
Tel: (012) 399-9372 Email: EIAAdmin@environment.gov.za

Please note that this form must be copied to the relevant provincial environmental department(s)
View the Department's website at <http://www.environment.gov.za/> for the latest version of the documents.

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1. PROOF OF PAYMENT

Applicants are required to tick the appropriate box below to indicate that either proof of payment is attached or that, in the applicant's view, an exclusion applies. Proof and a motivation for exclusions must be attached as **Appendix 1** of this application form.

Proof of payment attached as **Appendix 1**

Exclusion applies

An applicant is excluded from paying fees if:

- The activity is a community based project funded by a government grant; or
- The applicant is an organ of state.

TYPE OF EXCLUSION	Tick where applicable. Proper motivation must be attached to the application
The activity is a community based project funded by a government grant	
The applicant is an organ of state	See attached (Appendix A)

Department of Environmental Affairs' details for the payment of application fees

<p>Payment Enquiries: Tel: 012 399 9119 Email: eiafee@environment.gov.za</p> <p>Banking details: ABSA Bank Branch code: 632005 Account number: 1044 2400 72 Current account Reference number :(application reference number to be used)</p> <p>Proof of payment must accompany the application form:</p> <p>Tax exemption status: Status: Tax exempted</p>

Application for Amendment of Environmental Authorisation

2. APPLICATION DETAILS

Name of person to whom the environmental authorisation was issued:	Eskom Holdings SOC Limited		
Contact person:	Ms Martina Phiri		
Postal address:	P. O. Box 1091		
	Johannesburg		
	Postal code:	2000	
Telephone:	011 800 3550	Cell:	082 468 2137
E-mail:	PhiriM@eskom.co.za	Fax:	086 607 0618
Environmental Assessment Practitioner (EAP):	AECOM SA (Pty) Ltd (previously known as BKS Pty Ltd)		
Contact person:	Mr Bharat Gordhan		
Postal address:	263A West Avenue		
	Centurion, Tshwane		
	Postal code:	0157	
Telephone:	012 421 3577	Cell:	073 961 3505
E-mail:	bharat.gordhan@aecom.com	Fax:	012 421 3501
EAP Qualifications:	B.Sc. Environmental Science		
EAP Registrations/Associations:	SACNASP		
Name of landowner if the person to whom the environmental authorisation has been issued is not the owner:	Please note: This is mostly a linear project, servitudes rights still being negotiated.		
Contact person:	See above		
Postal address:			
	Postal code:		
Telephone:		Cell:	
E-mail:		Fax:	
	<p>In instances where there is more than one landowner, please attach a list of landowners with their contact details to the back of this page, together with copies of the notices given to these landowners about the amendment application.</p> <p>“Option Agreements for the commencement of power line servitude negotiation process not yet established, however the map indicating the approved corridor and list of interested & affected parties are attached as Appendix 3.”</p>		
Project Description:	Proposed Mitchell's Plain substation, a Switching station and the 400kV double circuit transmission power line from the proposed Mitchell's Plain substation to the proposed Switching station in the City of Cape Town, Western Cape Province.		
Farm name, Erf No., portion etc:	The Mitchell's Plain substation will be located on Farm 693 Portion 10 and the power line is as per the attached map (Refer to Appendix 3).		

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Physical address where authorised activity is taking or will take place:	Refer to the map attached as Appendix 3
Magisterial District or Town:	Cape Town
Departmental reference number of the previous environmental authorisation in respect of which an amendment is applied for:	Ref 12/12/20/1867
Date of issue of environmental authorisation:	11 June 2012

Application for Amendment of Environmental Authorisation

<p>Activity/ies for which authorisation was granted:</p>	<p>The authorisation was granted for the construction of the Mitchell's Plain substation, a Switching station and the 400kV double circuit transmission power line from the proposed Mitchell's Plain substation to the proposed Switching station in the City of Cape Town, Western Cape Province, Western Cape Province with the following activities:</p> <ul style="list-style-type: none"> • GN R.386 12: "The transformation or removal of indigenous vegetation of 3 hectares or more or of any size where the transformation or removal would occur within critical endangered or endangered ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004)". • GN R. 386 15: " The construction of a road that is wider than 4 metres or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres long". • GN R. 386 16(b): "The construction of undeveloped, vacant or derelict land to residential, mixed, retail, commercial, industrial or institutional use where such development does not constitute infill and where the total area to be transformed is bigger than 1 hectare". • GN R. 386 7: "The aboveground storage of a dangerous good, including petrol, diesel, liquid petroleum, gas or paraffin, in containers with a combined capacity of more 30 cubic metres at any one location or site". • GN R. 386 1(m): "The construction of facilities or infrastructures, for any purpose in the one in ten year flood line of a river or stream, or within 32m from the bank of a river stream where the flood line is unknown, excluding purposes associated with existing residential use, but excluding – <ul style="list-style-type: none"> (i)canal; (ii)channels; (iii)bridges; (iv)dams; and (v)wiers". • GN R. 386 20: "The transformation of an area zoned for use as public open space or for conservation purposes to another use". • GN R.387 1(l): "Construction of facilities or infrastructures, including associated structures or infrastructures, for the transmission and distribution of above ground electricity with capacity of 120 kilovolts or more". • GN R.387 2: "any development activity including associated infrastructure where the total area of the developed area is or is intended to be 20 hectares or more". <p>For the construction of the Mitchell's Plain substation, the Switching station and the 2x400Kv double circuit transmission powerline from the proposed Mitchell's Plain substation to another proposed Switching station, City of Cape Town Municipality in the Western Cape Province.</p>
<p>Please Note: A certified copy of the environmental authorisation must be attached to this application as Appendix 2.</p>	

Application for Amendment of Environmental Authorisation

3. DETAILS OF IMPLEMENTATION OF PREVIOUS ENVIRONMENTAL AUTHORISATION

Was the activity commenced with during the validity period of the environmental authorisation? If yes, please describe the implementation of the previous environmental authorisation to date:	YES	<input checked="" type="checkbox"/> NO

4. AMENDMENTS APPLIED FOR AND RELATED INFORMATION

Please indicate which of the following is relevant:

4.1. The holder of an environmental authorisation may at any time apply to the relevant competent authority for the amendment of the authorisation if:

(a) there is a material change in the circumstances which existed at the time of the granting of the environmental authorisation;	YES	<input checked="" type="checkbox"/> NO
(b) there has been a change of ownership in the property and transfer of rights and obligations must be provided for; or	YES	<input checked="" type="checkbox"/> NO
(c) any detail contained in the environmental authorisation must be amended, added, substituted, corrected, removed or updated.	<input checked="" type="checkbox"/> YES	NO

4.2. Describe the amendments that are being applied for:

An Environmental Authorisation granted on 11 June 2012 is requested to be extended by an additional five (5) years, starting from 11 June 2017 to 10 June 2022.

4.3. Please provide the reasons and/or a motivation for the application for amendment:

According to condition 6 under Scope of Authorisation, the authorised activity should commence within a period of five (5) years from the date of issue (11 June 2012) or else the authorisation will lapse. The five year period lapses on the 10 June 2017 and construction of the project has not yet commenced.

The construction of the project has been delayed due to the challenges encountered with the key affected parties (i.e. City of Cape Town, SANRAL and Civil Aviation Agency on behalf of ACSA/Cape Town International Airport) regarding the acquisition of the servitude rights. To address these challenges, Eskom is currently assessing an alternative route alignment for the 400kV double circuit transmission line from the Mitchell's Plain substation (renamed Erica substation) to the Swartklip Interchange to accommodate the upgrades of R300, N2 and Cape Town International Airport. This assessment is still to be submitted as an application to the Authority, DEA.

The submission of "the application for alternative route alignment" to DEA is anticipated to be by March 2018 and the decision is likely to be made by end of June 2018. If the decision received is favourable or positive, Eskom will then enter into the negotiation process for acquisition of servitude rights with the affected parties / landowners. This negotiation process could take 24 to 36 months; hence this request (i.e. extension of the EA's validity by a period of 5 years, from 11 June 2017 to 10 June 2022) is being applied to the DEA.

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4.4. Should the amendment being requested result due to 4.1 (b) above, you are requested to furnish the Department with a written undertaking that the new holder of the environmental authorisation is willing and able to assume responsibility of the environmental authorisation issued. Provide a short motivation and explanation below:

Not applicable because there is no change to the original holder of the Environmental Authorisation (EA) and the process for acquisition of servitudes with affected landowners have not commenced.

5. ENVIRONMENTAL IMPACTS

5.1. Describe any negative environmental impacts that may occur if the application for amendment is granted, amongst others information on any increases in air emissions, waste generation, discharges to water and impacts of the natural or cultural environment must be included.

There will not be any additional environmental impacts due to the extension period of the EA.

5.2. Describe any negative environmental impacts that may occur if the application for amendment is **not** granted.

- The EA issued will lapse and Eskom will not be able to provide the City of Cape Town with the needed electricity injection for the city's economic growth.

5.3. Describe any positive environmental impacts that may occur if the application for amendment is granted, amongst others information on any reduction in the ecological footprint, air emissions, waste generation and discharges to water must be included.

Socio-economic benefits due to the fact that temporary jobs will be created through the construction of the project and the City of Cape Town will receive the additional electricity supply it needs for its economic growth.

6. AUTHORISATION FROM OTHER GOVERNMENT DEPARTMENTS

6.1. Are any permission, licenses or other authorisations required from any other departments before the requested amendments can be effected?	YES	<input checked="" type="checkbox"/> NO
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If yes, please complete the table below.

Name of department and contact person	Authorisation required	Authorisation applied for (Yes/ No)

7. RIGHTS OR INTERESTS OF OTHER PARTIES

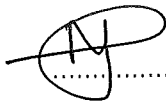
In your opinion, will this proposed amendment adversely affect the rights and interests of other parties?	YES	NO
Please provide a detailed motivation of your opinion. It will not adversely affect the rights of other parties because there is no substantive amendment being applied for <u>except</u> the request for the extension of the EA's validity by a period of 5 years, from 11 June 2017 to 10 June 2022.		

NOTE: The Department is entitled to request further information if it believes it is necessary for the consideration of the application. If the application is for a substantive amendment or if the rights or interests of other parties are likely to be adversely affected, the Department will instruct the applicant to conduct a public participation process and to conduct any investigations and assessments that it deems necessary.

8. DECLARATION:

I, **Martina Phiri** declare that I will comply with all my legal obligations in terms of this application and provide accurate information to everyone concerned in respect to this application.

Signature of the applicant:



Name of company or organisation:

Eskom Holdings SOC Limited

Date: 9/5/2017

Application for Amendment of Environmental Authorisation

APPENDIX 1
PROOF OF PAYMENT/ MOTIVATION FOR EXCLUSION

AFFIDAVIT

TO CONFORM WITH THE REQUIREMENTS OF THE DEPARTMENT OF ENVIRONMENTAL AFFAIRS FOR APPLICATION OF THE AMENDMENT OF ENVIRONMENTAL AUTHORISATION (PART 1 OF CHAPTER 5 OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATION (2014))

I, the undersigned, **LERATO MOKGWATLHENG** do hereby make oath and state that

1. I am employed by Eskom Holdings SOC Limited (Group Capital: ERE Land Development Department (Eskom) as a Senior Advisor Environmental Management.
2. I am responsible for the management of the Environmental Impact Assessment application to the Department of Environmental Affairs (the Department) for Environmental Authorisation (EA) of the : Proposed Mitchell's Plain Substation, a Switching Station and the 400kV Double Circuit Transmission Power Line from the Proposed Mitchell's Plain Substation to the Proposed Switching Station in the City of Cape Town, Western Province (hereon to be referred to as Mitchell's Plain Substation and Powerline Project).
3. I am duly authorised to depose to this affidavit on behalf of Eskom.
4. The averments herein are within my personal knowledge, unless the context otherwise indicates and are true.
5. The Department issued Eskom with an Environmental Authorisation (EA) on 11 June 2012 (Reference no 12/12/20/1867) for the Mitchell's Plain Substation and Powerline Project.
6. The EA is valid for a period of five years and is expiring on 10 June 2017.
7. After the issuing of the EA, the Department faxed a copy to Eskom. I am unable to confirm whether the Department also posted the original EA to Eskom. Despite an extensive search I am unable to locate the original EA.
8. Eskom is not able to commence with the construction activities within the period prescribed in the EA and therefore intends to apply to the Department for an amendment of the EA in terms of Part 1 of Chapter 5 of the Environmental Impact Regulation (2014).

LLM
TB.

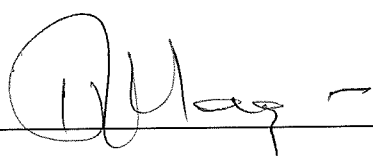
9. In the circumstances, I will have to append a copy of the EA to the application for an extension of the validity of the period of the EA as I am unable to provide a certified copy of the EA as required by the Department in terms of Part 1 of Chapter 5 of the Environmental Impact Regulation (2014).



LERATO MOKGWATLHENG

DEPONENT

THUS SIGNED AND SWORN/AFFIRMED to before me at Megawattpark
on this the 10th day of May 2017.



COMMISSIONER OF OATHS



Signature of declarant

I certify that the deponent has acknowledged that she / he knows and understands the content of this declaration which was sworn to and affirmed before me and the deponent signature/thumb print/mark was placed thereon in my presence.

JUSTICE OF PEACE
COMMISSIONER OF OATHS

Thowal Magsuly
Full first names and surname (Block letters)

PI
Rank / Designation (Ex Officio Republic of South Africa)

Business Address: ESKOM HOLDINGS SOC LTD
MAXWELL DRIVE, SUNNINGHILL, SANDTON
ESKOM REAL ESTATE SECURITY

DATE: 10 May 2017
PLACE: MEGAWATT PARK

Application for Amendment of Environmental Authorisation

**APPENDIX 2
CERTIFIED COPY OF ENVIRONMENTAL AUTHORISATION**

Ms. Martina Phiri
Land Development: Programme Manager

Date:
27 May 2016

Enquiries: Gert Kruger
Tel +27 11 800 4643

Dear Ms. Phiri

DELEGATION OF AUTHORITY: PROGRAMME MANAGER

The Eskom Delegation of Authority Policy Document (240-62072907) has been revised and approved by the Eskom Board on 27 February 2013, and is effective from 1 April 2013.

In terms of the powers, duties and authority as delegated to me by the Eskom Board and in accordance with the provisions of the Eskom DOA, subject to the terms and conditions set out therein, I, Abram Masango, in my capacity as Group Executive: Group Capital, do hereby delegate the powers and authority of a **Middle Manager Programme Management: Land Development (Eskom Real Estate)**. This delegation is effective from the date of acceptance and is applicable to you for all Capital projects for the following:

The authority to sign and execute-

- Agreements and documentations necessary for the acquisition of land, servitudes, leases and others
- Environmental Applications
- Permits and licence applications


The authority to authorise

- Payment of landowners and attorneys for compensation, consideration nor costs in respect of land and rights acquisition and lease transactions approved by the relevant authority in terms of the Eskom DOA
- Payment of service providers for services rendered in respect of land and rights acquisition and lease transactions approved by the relevant authority in terms of the Eskom DOA

This delegation shall be valid from 1 June 2016 to you ceasing for any reason whatsoever at any time from acting in your position as Programme Manager or this delegation is withdrawn either by myself or the Chief Executive. Please ensure that you are familiar with the content of the above document and that your actions fall within the limits prescribed. This delegation supersedes all previous documents delegating power, duties and authorities in this regard to the undersigned.

Group Capital
Eskom Real Estate
Megawatt Park, Maxwell Drive, Sunninghill, Sandton
PO Box 1091 Johannesburg 2000, SA
Tel +27 11 800 2101 Fax +27 11 800 5684, www.eskom.co.za

Yours sincerely



Abram Masango

Group Executive: Group Capital

1.6.2016
Date:-----

I hereby accept the delegation



Martina Phiri
Programme Manager

6.6.2016
Date:-----



environmental affairs

Department
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Private Bag X 447 · PRETORIA · 0001 · Fedsure Building · 315 Pratorius Street · PRETORIA
Tel (+ 27 12) 310 3911 · Fax (+ 2712) 322 2862

NEAS Reference: DEAT/EIA/12196/2011

DEA Reference: 12/12/20/1867

Enquiries: Gabisile Hlongwane

Telephone: 012-310 3805 Fax: 012-320-7539 E-mail: GabisileH@environment.gov.za

Ms Mmamoloko Seabe
Eskom Holdings SOC Ltd
P.O. Box 1091
SUNNINGHILL
2157

Fax no: (011) 800 3917

PER FACSIMILE / MAIL

Dear Ms Seabe

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: GN R. 385, 386 AND 387: PROPOSED MITCHELL'S PLAIN SUBSTATION, A SWITCHING STATION AND THE 400KV DOUBLE CIRCUIT TRANSMISSION POWERLINE FROM THE PROPOSED MITCHELL'S PLAIN SUBSTATION TO THE PROPOSED SWITCHING STATION IN THE CITY OF CAPE TOWN, WESTERN CAPE PROVINCE

With reference to the above application, please be advised that the Department has decided to accept the Final Environmental Impact Report (FEIR) dated February 2012 and grant authorisation. The environmental authorisation (EA) and reasons for the decision are attached herewith.

In terms of Regulation 10(2) of the Environmental Impact Assessment Regulations, 2010 (the Regulations), you are instructed to notify all registered interested and affected parties, in writing and within 12 (twelve) days of the date of the EA, of the Department's decision in respect of your application as well as the provisions regarding the submission of appeals that are contained in the Regulations.

Your attention is drawn to Chapter 7 of the Regulations, which prescribes the appeal procedure to be followed. This procedure is summarised in the attached document. Kindly include a copy of this document with the letter of notification to interested and affected parties.

Should the applicant or any other party wish to appeal any aspect of the decision a notice of intention to appeal must be lodged by all prospective appellants with the Minister, within 20 days of the date of the EA, by means of one of the following methods:

- By facsimile: 012 320 7561;
- By post: Private Bag X447,
Pretoria, 0001; or
- By hand: 2nd Floor, Fedsure Building, North Tower,
cnr. Van der Walt and Pretorius Streets,
Pretoria.

If the applicant wishes to lodge an appeal, it must also serve a copy of the notice of intention to appeal on all registered interested and affected parties as well as a notice indicating where, and for what period, the appeal submission will be available for inspection, should you intend to submit an appeal.

Please include the Department (*Attention: Director: Environmental Impact Evaluation*) in the list of interested and affected parties, notified through your notification letter to interested and affected parties, for record purposes.

Appeals must be submitted in writing to:

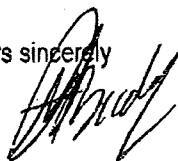
Mr T Zwane, Senior Legal Administration Officer (Appeals) of this Department at the above mentioned addresses or fax number. Mr Zwane can also be contacted at:

Tel: 012-310-3929

Email: lzwane@environment.gov.za

The authorised activity/ies shall not commence within twenty (20) days of the date of signature of the authorisation. Further, please note that the Minister may, on receipt of appeals against the authorisation or conditions thereof suspend the authorisation pending the outcome of the appeals procedure.

Yours sincerely



Mr Ishaam Abader
Deputy Director-General: Legal, Authorisations, Compliance and Enforcement
Department of Environmental Affairs

Date: 11/06/2012

CC:	Mr Peter Teurlings	BKS (Pty) Ltd	Tel: 012 421 3500	Fax: 012 421 3601
	Mr Zaahir Toefy	DEADP	Tel: 021 483 5826	Fax: 021 483 4372
	Mr Azanne van Wyk	CoCT Metropolitan Municipality	Tel: 021 850 4094	Fax: 021 740 4004
	Mr T Zwane	Appeals Authority (DEA)	Tel: 012-310-3929	Fax: 012-320-7561

APPEALS PROCEDURE IN TERMS OF CHAPTER 7 OF THE NEMA EIA REGULATIONS, 2010 (THE REGULATIONS) AS PER GN R. 543 OF 2010 TO BE FOLLOWED BY THE APPLICANT AND INTERESTED AND AFFECTED PARTIES UPON RECEIPT OF NOTIFICATION OF AN ENVIRONMENTAL AUTHORISATION (EA)

APPLICANT	INTERESTED AND AFFECTED PARTIES (IAPs)
1. Receive EA from the relevant Competent Authority (the Department of Environmental Affairs [DEA])	1. Receive EA from Applicant/Consultant
2. Within 12 days of date of the EA notify all IAPs of the EA and draw their attention to their right to appeal against the EA in terms of Chapter 7 of the Regulations.	2. N/A
3. If you want to appeal against the EA, submit a notice of intention to appeal within 20 days of the date of the EA. with the Minister of Water and Environmental Affairs (the Minister).	3. If you want to appeal against the EA, submit a notice of intention to appeal within 20 days of the date of the EA. with the Minister of Water and Environmental Affairs (the Minister).
4. After having submitted your notice of intention to appeal to the Minister, provide each registered IAP with a copy of the notice of intention to appeal within 10 days of lodging the notice	4. After having submitted your notice of intention to appeal to the Minister, provide the applicant with a copy of the notice of intention to appeal within 10 days of lodging the notice
5. The Applicant must also serve on each IAP: <ul style="list-style-type: none"> • a notice indicating where and for what period the appeal submission will be available for inspection. 	5. Appellant must also serve on the Applicant within 10 days of lodging the notice, <ul style="list-style-type: none"> • a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.
6. The appeal must be submitted in writing to the Minister within 30 days after the lapsing of the period of 20 days provided for the lodging of the notice of intention to appeal.	6. The appeal must be submitted to the Minister within 30 days after the lapsing of the period of 20 days provided for the lodging of the notice of intention to appeal.
7. Any IAP who received a notice of intention to appeal may submit a responding statement to that appeal to the Minister within 30 days from the date that the appeal submission was lodged with the Minister.	7. An Applicant who received notice of intention to may submit a responding statement to the appeal to the Minister within 30 days from the date that the appeal submission was lodged with the Minister.

NOTES:

1. **An appeal against a decision must be lodged with:-**
 - a) the Minister of Water and Environmental Affairs if the decision was issued by the Director- General of the Department of Environmental Affairs (or another official) acting in his/ her capacity as the delegated Competent Authority;
 - b) the Minister of Justice and Constitutional Development if the applicant is the Department of Water Affairs and the decision was issued by the Director- General of the Department of Environmental Affairs (or another official) acting in his/ her capacity as the delegated Competent Authority;

2. **An appeal lodged with:-**
 - a) the Minister of Water and Environmental Affairs must be submitted to the Department of Environmental Affairs;
 - b) the Minister of Justice and Constitutional Development must be submitted to the Department of Environmental Affairs;

3. **An appeal must be:-**
 - a) submitted in writing;
 - b) accompanied by:
 - a statement setting out the grounds of appeal;
 - supporting documentation which is referred to in the appeal; and
 - a statement that the appellant has complied with regulation 62 (2) or (3) together with copies of the notices referred to in regulation 62.





environmental affairs
Department
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Environmental Authorisation

In terms of regulation 37 of the Environmental Impact Assessment Regulations, 2006

**Construction of the Mitchell's Plain Substation, the Switching Station and 2X400kV Double
Circuit Transmission Powerline from the proposed Mitchell's Plain Substation to another
proposed Switching Station, Western Cape Province**

City of Cape Town Metropolitan Municipality

Authorisation register number:	12/12/20/1867
NEAS reference number:	DEA/EIA/12196/2011
Last amended:	First issue
Holder of authorisation:	Eskom Holdings SOC Limited
Location of activity:	WESTERN CAPE PROVINCE: City of Cape Town Metropolitan Municipality

This authorisation does not negate the holder of the authorisation's responsibility to comply with any other statutory requirements that may be applicable to the undertaking of the activity.

Decision

The Department is satisfied, on the basis of information available to it and subject to compliance with the conditions of this environmental authorisation, that the applicant should be authorised to undertake the activities specified below.

Non-compliance with a condition of this authorisation may result in criminal prosecution or other actions provided for in the National Environmental Management Act, 1998 and the EIA regulations.

Details regarding the basis on which the Department reached this decision are set out in Annexure 1.

Activities authorised

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act 107 of 1998) and the Environmental Impact Assessment Regulations, 2006 the Department hereby authorises –

ESKOM HOLDINGS SOC LIMITED

with the following contact details –

MS. Mmamoloko Seabe
Eskom Holdings SOC Limited
P.O. Box 1091
JOHANNESBURG
2000

Tel: (011) 800 2345
Fax: (011) 800 3917
Cell: (082) 801 3911
E-mail: SeabeJM@eskom.co.za

to undertake the following activities (hereafter referred to as "the activity"):



Notice No.	Activity No.	Activity Description (as per the relevant Notice)
GN R. 386	12	<i>The transformation or removal of indigenous vegetation of 3 hectares or more or of any size where the transformation or removal would occur within critically endangered or endangered ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).</i>
GN R. 386	15	<i>The construction of a road that is wider than 4 metres or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres long.</i>
GN R. 386	16(b)	<i>The construction of undeveloped, vacant or derelict land to residential, mixed, retail, commercial, industrial or institutional use where such development does not constitute infill and where the total area to be transformed is bigger than 1 hectare.</i>
GN R. 386	7	<i>The aboveground storage of a dangerous good, including petrol, diesel, liquid petroleum gas or paraffin, in containers with a combined capacity of more than 30 cubic metres but less than 1000 cubic metres at any one location or site.</i>
GN R. 386	1(m)	<i>The construction of facilities or infrastructure, including associated structures or infrastructure, for any purpose in the one in ten year flood line of a river or stream, or within 32 m from the bank of a river stream where the flood line is unknown, excluding purposes associated with existing residential use, but including –</i> <div style="margin-left: 40px;"> <ul style="list-style-type: none"> (i) Canals; (ii) Channels; (iii) Bridges; (iv) Dams; and (v) Weirs </div>
GN R. 386	20	<i>The transformation of an area zoned for use as public open space or for conservation purposes to another use</i>
GN R.387	1 (l)	<i>The construction of facilities or infrastructure, including associated structures or infrastructure, for the transmission and distribution of above</i>

		<i>ground electricity with a capacity of 120 kilovolts or more.</i>
<i>GN R.367</i>	<i>2</i>	<i>Any development activity, including associated structures and infrastructure, where the total area of the development is, or is intended to be, 20 hectares or more.</i>

as described in the Final Environmental Impact Report (FEIR) dated February 2012 at the following start-end co-ordinates:

MS-C-1	34	0	53.87	18	36	22.09
MS-C-35	33	59	9.31	18	39	55.60
MS-C-36	33	59	8.56	18	40	9.41
MS-C-47	33	58	7.16	18	40	56.25
MS-C-48	33	59	50.93	18	37	31.60
MS-C-53	33	59	45.02	18	38	14.66
MS-D-20	33	57	56.67	18	41	0.57
MS-D-Gantry 3	33	57	6.37	18	42	20.25

Portion 10 of the Cape Farm 693	350m x 350m (12.25ha)	34	01	16	18	36	18
Portion 66 of the Farm Saxenburg 419	300m x 300m (9ha)	33	57	1.5	18	42	20

- for the construction of the Mitchell's Plain Substation, the Switching Station and the 2X400kV Double Circuit Transmission Powerline from the proposed Mitchell's Plain Substation to another proposed Switching Station, City of Cape Town Metropolitan Municipality in the Western Cape Province, hereafter referred to as "the property".



Conditions

Scope of authorisation

1. The preferred option for the Mitchell's Plain Substation Alternative 1, located on Portion 10 of the Cape Farm 693, and Route Alternative MS-C (including MS-Ca, MS-Cb and MS-Cc) and MS-Db to the proposed switching station located on Portion 66 of the Farm Saxenburg 419 at the intersection of Polkadraai Road and Zewenwacht Link Road are approved.
2. Authorisation of the activity is subject to the conditions contained in this authorisation, which form part of the environmental authorisation and are binding on the holder of the authorisation.
3. The holder of the authorisation is responsible for ensuring compliance with the conditions contained in this environmental authorisation. This includes any person acting on the holder's behalf, including but not limited to, an agent, servant, contractor, sub-contractor, employee, consultant or person rendering a service to the holder of the authorisation.
4. The activities authorised may only be carried out at the property as described on page 4.
5. Any changes to, or deviations from, the project description set out in this authorisation must be approved, in writing, by the Department before such changes or deviations may be effected. In assessing whether to grant such approval or not, the Department may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviations and it may be necessary for the holder of the authorisation to apply for further authorisation in terms of the regulations.
6. This activity must commence within a period of five (5) years from the date of issue. If commencement of the activity does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken. Should there be a requirement to extend the validity period of the EA, an application for extension of the validity of the EA, must be lodged at least six (6) months prior to the expiration date.
7. Commencement with one activity listed in terms of this authorisation constitutes commencement of all authorised activities.
8. The holder of an environmental authorisation has the responsibility to notify the competent authority of any alienation, transfer and change of ownership rights in the property on which the activity is to take place.



Notification of authorisation

9. The holder of the authorisation must notify every registered interested and affected party, in writing and within 12 (twelve) calendar days of the date of this environmental authorisation, of the decision to authorise the activity.
10. The notification referred to must –
 - 10.1. specify the date on which the authorisation was issued;
 - 10.2. inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the Environmental Impact Assessment (EIA) Regulations, 2010;
 - 10.3. advise the interested and affected party that a copy of the authorisation will be furnished on request; and
 - 10.4. give the reasons for the decision.

Management of the activity

11. The Environmental Management Plan (EMP) for the construction submitted as part of the application for environmental authorisation is hereby approved. This EMP must be implemented and adhered to.

Environmental Control Officer (ECO) and duties

12. The holder of the authorisation must appoint an Environmental Control Officer (ECO) with experience or expertise in the field for the construction phase of the development. The ECO will have the responsibility to ensure that the mitigation/rehabilitation measures and recommendations referred to in this authorisation are implemented and to ensure compliance with the provisions of the EMP.
13. The ECO must be appointed before commencement of any authorised activities.
 - 13.1. The ECO must remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is ready for operation.
 - 13.2. Once appointed, the name and contact details of the ECO must be submitted to the *Director: Compliance Monitoring* of the Department.
 - 13.3. The ECO must keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.

14. The ECO must:

- 14.1. Keep and maintain a detailed incident (including spillage of bitumen, fuels, chemicals, or any other material) and complaint register on site indicating how these issues were addressed, what rehabilitation measures were taken and what preventative measures were implemented to avoid re-occurrence of incidents/complaints.
- 14.2. Keep and maintain a daily site diary.
- 14.3. Keep copies of all reports submitted to the Department.
- 14.4. Keep and maintain a schedule of current site activities including the monitoring of such activities.
- 14.5. Obtain and keep record of all documentation, permits, licences and authorisations such as waste disposal certificates, hazardous waste landfill site licences etc. required by this facility.
- 14.6. Compile bi-monthly monitoring reports.

Recording and reporting to the Department

15. The holder of this authorisation must keep all records relating to monitoring and auditing on site and make it available for inspection to any relevant and competent authority in respect of this development.
16. All documentation e.g. audit/monitoring/compliance reports and notifications, required to be submitted to the Department in terms of this authorisation, must be submitted to the *Director: Compliance Monitoring* at the Department.

Environmental audit report

17. The holder of the authorisation must submit an environmental audit report to the Department within 30 days of completion of the construction phase (i.e. within 30 days of site handover) and within 30 days of completion of rehabilitation activities.
18. The environmental audit report must:
 - 18.1. Be compiled by an independent environmental auditor;
 - 18.2. Indicate the date of the audit, the name of the auditor and the outcome of the audit;
 - 18.3. Evaluate compliance with the requirements of the approved EMP and this environmental authorisation;

- 18.4. Include measures to be implemented to attend to any non-compliances or degradation noted;
- 18.5. Include copies of any approvals granted by other authorities relevant to the development for the reporting period;
- 18.6. Highlight any outstanding environmental issues that must be addressed, along with recommendations for ensuring these issues are appropriately addressed; and
- 18.7. Include a copy of this authorisation and the approved EMP.
- 18.8. Include all documentation such as waste disposal certificates, hazardous waste landfill site licences etc. pertaining to this authorisation.
- 18.9. Include evidence of adherence to the conditions of this authorisation and the EMP where relevant such as training records and attendance records.

Commencement of the activity

19. The authorised activity shall not commence within twenty (20) days of the date of signature of the authorisation.
20. An appeal under section 43 of the National Environmental Management Act (NEMA), Act 107 of 1998 (as amended), does not suspend an environmental authorisation or exemption, or any provisions or conditions attached thereto, or any directive, unless the Minister, MEC or delegated organ of state directs otherwise.
21. Should you be notified by the Minister of a suspension of the authorisation pending appeal procedures, you may not commence with the activity until such time that the Minister allows you to commence with such an activity in writing.

Notification to authorities

22. Fourteen (14) days written notice must be given to the Department that the activity will commence. Commencement for the purposes of this condition includes site preparation. The notice must include a date on which it is anticipated that the activity will commence, as well as a reference number. This notification period may coincide with the notice of intent to appeal period, within which construction may not commence.



Operation of the activity

23. Fourteen (14) days written notice must be given to the Department that the activity operational phase will commence.
24. The applicant must compile an operational EMP for the operational phase of the activity or alternatively, if the applicant has an existing operational environmental management system, it must be amended to include the operation of the authorised activity.

Site closure and decommissioning

25. Should the activity ever cease or become redundant, the applicant shall undertake the required actions as prescribed by legislation at the time and comply with all relevant legal requirements administered by any relevant and competent authority at that time.

Specific conditions

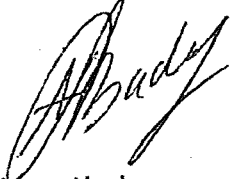
26. Monopole pylons must be used for the Firgrove-Mitchell's Plain route alignment.
27. Only 23 pylons positions between MS-C-25B and MS-C-47 are allowed to be multi circuited in order to share the servitude with distribution lines.
28. The maximum operational height under the tower conductors must be kept at 5.5m.
29. Only pylons positions MS-C-16B a or b; MS-C-17 a or b; MS-C-24Be; MS-D-25Bb and MS-D-25Bc may be allowed for a possible resettlement.
30. Where resettlement is required as indicated in the above clause, a detailed Resettlement Action Plan (RAP) must be developed and detailed discussions with all stakeholders involved.
31. Written proof of any agreements and/or arrangements made following the above discussions and/or negotiations must be submitted to this Department for record keeping. Submissions must be made for the attention of the *Director: Environmental Impact Evaluation*.
32. The final position of the construction camp must be communicated to this Department 30 days before the construction commence.
33. No activities are allowed to encroach into a water resource without a water use authorisation being in place from the Department of Water Affairs.
34. The applicant must obtain a wayleave from the Department of Public Transport Roads and Works prior construction.

35. Anti-collision devices such as bird flappers must be installed where powerlines crosses avifaunal corridors. The input of an avifaunal specialist must be obtained for the fitting of the anti-collision devices onto specific sections of the line.
36. A permit must be obtained from the relevant nature conservation agency should there be any removal or destruction of indigenous protected and endangered plant and animal species.
37. Copies of permits required and obtained in respect of any relevant legislation must be submitted to the Department for record keeping.
38. No exotic plants may be used for rehabilitation purposes. Only indigenous plants of the area may be utilised.
39. Vegetation clearing must be kept to the approved servitude.
40. Construction must include appropriate design measures that allow movement of storm water along drainage lines so as not to impede natural surface and subsurface flows.
41. An integrated waste management approach must be implemented that is based on waste minimisation and must incorporate reduction, recycling and re-use. Any solid waste shall be disposed of at a landfill licensed in terms of section 20 (b) of the National Environment Management Waste Act, 2008 (Act 59 of 2008). Copies of all waste disposal certificate must be kept on site.

General

42. A copy of this authorisation must be kept at the property where the activity will be undertaken. The authorisation must be produced to any authorised official of the Department who requests to see it and must be made available for inspection by any employee or agent of the holder of the authorisation who works or undertakes work at the property.
43. The holder of the authorisation must notify both the Director: Environmental Impact Evaluation and the *Director: Compliance Monitoring* at the Department, in writing and within 48 (forty eight) hours, if any condition of this authorisation cannot be or is not adhered to. Any notification in terms of this condition must be accompanied by reasons for the non-compliance.
44. National government, provincial government, local authorities or committees appointed in terms of the conditions of this authorisation or any other public authority shall not be held responsible for any damages or losses suffered by the applicant or his successor in title in any instance where construction or operation subsequent to construction be temporarily or permanently stopped for reasons of non-compliance by the applicant with the conditions of authorisation as set out in this document or any other subsequent document emanating from these conditions of authorisation.

Date of environmental authorisation: 11 JUNE 2012



Mr Ishaam Abader

**Deputy Director-General: Legal, Authorisations, Compliance and Enforcement
Department of Environmental Affairs**

Annexure 1: Reasons for Decision

1. Information considered in making the decision

In reaching its decision, the Department took, *inter alia*, the following into consideration -

- a) The information contained in the FEIR dated February 2012;
- b) The comments received from DEA Directorate: Biodiversity and Planning;
- c) The comments received from the Western Cape Department of Environmental Affairs and Development Planning dated 23 February 2012;
- d) Mitigation measures as proposed in the final FEIR dated February 2012 and the EMP;
- e) The information contained in the specialist studies contained within Appendix I of the final FEIR dated February 2012;
- f) Findings of the site visit conducted on 22 December 2011; and
- g) The objectives and requirements of relevant environmental legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998).

2. Key factors considered in making the decision

All information presented to the Department was taken into account in the Department's consideration of the application. A summary of the findings which, in the Department's view, were of the most significance is set out below.

- a) The findings of all the specialist studies conducted and their recommended mitigation measures.
- b) Due to high density development surrounding the existing substations in the study area, the introduction of new feeder lines was not deemed feasible due to the risk of potential technical problems. Eskom then proposed the construction of a second 400kV injection to feed into the City of Cape Town (CoCT) supply area at a new substation located in or surrounding Mitchell's Plain.
- c) The final FEIR dated February 2012 identified all relevant environmental legislation and guidelines that have been considered in the preparation of the final FEIR dated February 2012.
- d) The methodology used in assessing the potential impacts identified in the FEIR dated February 2012 and the specialist studies have been adequately indicated.

- e) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2006 for public involvement.

3. Conclusions

After consideration of the information and factors listed above, the Department made the following conclusions -

- a) According to the Western Cape Department of Environmental Affairs and Development Planning, the final FEIR dated February 2012 meets the legal requirements in terms of EIA Regulations 2006.
- b) The specialist studies indicated low impacts on Alignment MS-C.
- c) The preferred Mitchell's Plain Substation is located in close proximity to the access roads and has limited visual intrusion due to the built-up urban environment surrounding the site.
- d) The Social Assessment concluded that none of the negative social impacts identified along the preferred alignment are sufficiently significant to preclude the development from a socio-economic perspective as the number of individual dwellings that are affected have been significantly reduced.
- e) The identification and assessment of impacts are detailed in the final FEIR dated February 2012 and sufficient assessment of the key identified issues and impacts have been completed.
- f) The procedure followed for impact assessment is adequate for the decision-making process.
- g) The proposed mitigation of impacts identified and assessed adequately curtails the identified impacts.
- h) All environmental legal and procedural requirements have been met.
- i) According to the independent EAP, the information contained in the FEIR dated February 2012 is accurate and credible.
- j) EMP measures for the pre-construction, construction and rehabilitation phases of the development were proposed and included in the FEIR dated February 2012 will be implemented to manage the identified environmental impacts during the construction process.

In view of the above, the Department is satisfied that, subject to compliance with the conditions contained in the environmental authorisation, the proposed activity will not conflict with the general objectives of integrated environmental management laid down in Chapter 5 of the National Environmental Management Act, 1998 and that any potentially detrimental environmental impacts

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resulting from the proposed activity can be mitigated to acceptable levels. The application is accordingly granted.





**MINISTER
WATER AND ENVIRONMENTAL AFFAIRS
REPUBLIC OF SOUTH AFRICA**

Reference: LSA123917

APPEAL DECISION

APPEAL AGAINST THE ENVIRONMENTAL AUTHORISATION ISSUED TO ESKOM HOLDINGS SOC LIMITED, FOR THE CONSTRUCTION OF THE PROPOSED MITCHELL'S PLAIN SUBSTATION, SWITCHING STATION AND A 400KV DOUBLE CIRCUIT TRANSMISSION POWER LINE FROM THE PROPOSED MITCHELL'S PLAIN SUBSTATION TO ANOTHER PROPOSED SWITCHING STATION, WITHIN THE CAPE TOWN METROPOLITAN MUNICIPALITY, WESTERN CAPE PROVINCE

1. INTRODUCTION

In terms of regulation 36 (1) of the Environmental Impact Assessment Regulations, 2010, published by Government Notice (GN) No. R. 543 of 2 August 2010 (the 2010 EIA Regulations), regarding activities identified under section 24 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA), the Deputy Director-General: Legal, Authorisations, Compliance and Enforcement (LACE) of the Department of Environmental Affairs (the Department) authorised Eskom Holdings Soc Limited (the applicant), on 11 June 2012, to proceed with the construction of the above-mentioned proposed project in Mitchell's Plain, within the jurisdiction of the City of Cape Town Metropolitan Municipality, Western Cape Province.

2. BACKGROUND

- 2.1 The proposed project comprises of the construction of the Mitchell's Plain Substation, a switching station and 2X400kV double circuit transmission power lines from the proposed Mitchell's Plain Substation to another proposed switching station.
- 2.2 The proposed Mitchell's Plain Substation, as authorised, is located on Portion 10 of the Cape Farm 693, and Route Alternative MS-C and MS-Db to the proposed switching station is located on Portion 66 of the Farm Saxenburg 419 at the intersection of Polkadraai Road and Zewenwacht link Road.
- 2.3 The environmental authorisation (EA) records the applicant's contention that the need and the desirability of the proposed project is due to the increased urban densification, and that the upgrade will strengthen and ensure continued security of the electricity supply within the City of Cape Town, Western Cape Province.

3 THE APPEAL

In terms of section 43 (1) of NEMA, Integrated Housing Development (Pty) Ltd and the Integrated Group (the appellants), both registered interested and affected parties, and represented by Edward Nathan Sonneberg Inc, lodged appeals against the environmental authorisation for the above-mentioned proposed project.

4. DECISION

- 4.1 In reaching my decision on the appeal lodged against the authorisation to proceed with construction of the proposed project, I have taken the following into consideration:
 - 4.1.1 Material information contained in the project file (12/12/20/1867);
 - 4.1.2 The grounds of appeal submitted by the appellants;
 - 4.1.3 The response of the applicant to the grounds of appeal;
 - 4.1.4 The comments received from the Chief Directorate: Integrated Environmental Authorisations (CD: IEA) of the Department; and

4.1.5 The need and desirability of the proposed project.

4.2 Having considered the above information, and acting in terms of section 43 (6) of NEMA, I have decided to:

4.2.1 Vary the EA by amending condition 26 **under the heading Specific Conditions** of the EA issued to applicant on 11 June 2012 for the construction of the proposed development to read as follows:

"The holder of the authorisation must consult with the affected property owners regarding the choice of design of the pylons to be utilised in the proposed development as identified in the Environmental Impact Assessment Report".

4.2.2 Dismiss the appeals against the EA issued by the Deputy Director-General: Legal, Authorisations, Compliance and Enforcement of the Department of Environmental Affairs to Eskom on 11 June 2012 for the construction of the proposed project.

4.3 The reasons for my decision are as follows:

4.3.1 **THE DEVELOPMENT OF THE PROPOSED POWER LINES IS IMMEDIATELY ADJACENT TO THE APPELLANT'S PROPERTY AND WILL HAVE A SIGNIFICANT DETRIMENTAL EFFECT ON THE BARDALE VILLAGE, AN AFFORDABLE HOUSING DEVELOPMENT PRESENTLY UNDER CONSTRUCTION AND PARTIALLY COMPLETED, WHICH IS SITUATED ON THE REMAINDER OF ERF 20733**

The appellants aver that the EA approves the revised route for the power lines development, which is immediately adjacent to their property. However, the appellant contends that the EA does not allow for any further negotiation of the position of the pylons next to their property, but specifically provides that only certain pylon positions (which do not include those to be constructed adjacent to their property) may be allowed for possible resettlement. The appellants further submits that despite their objection, the EA provides

that only the mono-pole design may be used, which in their opinion, will have a significant detrimental effect on their property.

The information before me shows that the description of the Bardale Village and the impacts associated with the proposed power lines development were discussed in the Final Environmental Impact Assessment Report (FEIAR), dated 29 February 2012. The report contained specialist studies, recommendations and concerns raised by the registered interested and affected parties (I&APs). The report furthermore concluded that in order to limit any possible impacts on the development, a deviation of a section of the route was necessary and the route alignment MS-Cb was recommended, which was authorised by the department authorised.

The department furthermore informed me that the approved route alignment runs parallel to an existing Eskom distribution servitude, which runs east of the appellants' property (Bardale village property). As a result of this, there is likely to be an insignificant amount of impact on the Bardale village.

As regards the appellants' concern in respect of mono-pole pylons, the information before me shows that I&APs suggested the use of single mast or steel mono-pole pylons towers, which according to them, are not a risk of dismantling and theft for the steel. In addition, the department informed me that the mono-pole was considered because of its limited use of space or smaller tower footprint. Furthermore, the department informed me that condition 29 of the EA allows for the resettlement of specific pylon positions, meaning the possible resettlement of households under which the pylons are located. In view of this, the condition does not stipulate that pylons cannot be relocated or moved, as suggested by the appellants.

In light of the aforementioned information, this ground of appeal is dismissed.

4.3.2 FLAWED PUBLIC PARTICIPATION PROCESS (PPP) AND EIA PROCESS FOLLOWED BY THE APPLICANT

The appellants aver that due to an oversight by the applicant, they were not consulted during the Scoping and First Draft phases of the EIA process, during which the power lines development was initially planned in such a manner that it traversed through Bardale Village, effectively sterilizing the majority of the remainder of their development. In addition, they contend that even though the final EIAR provides that the proposed power line development would be situated to the east of Bardale Village, they remain concerned about the potential noise, health and visual impacts that this re-alignment would have on their property.

Furthermore, the appellants submit that as a condition of their non-objection to the realignment, the final EIAR provides that the applicant would further consult with the landowners, including them, "to ensure that a route alignment which would ensure the protection of the land value and resources and which would also be to the socio-economic benefit of the communities" is attained. They argue that this means the applicant would undertake further negotiations with them, regarding the location of the servitude in such a manner as to protect the value of their property.

The information before me shows that the following were done during the scoping and first draft phase of the EIA process:

- public meetings and multi-stakeholders workshops were held;
- site notification posters were placed throughout the study area; and
- advertisements were also placed in 2 provincial and 3 local newspapers (in English and Afrikaans), which proved to be an acceptable means of communication with other I&APs in the study area.

In view of the above, I am satisfied that the PPP and the EIA process conducted by the applicant were not flawed and is in compliance with the 2010 EIA Regulations.

With regard to the appellants' contention in terms of realignment, the information before me shows that the additional route alignment proposed at the focus group meeting on 24 August 2011 was an alternative route alignment that was assessed in version 2 of the draft EIAR. In addition, the final EIAR indicates that in order to limit any possible impacts on the development, a deviation of a section of the route alignment MS-Cb was recommended.

This route alignment runs parallel to the applicant's existing distribution power lines servitude, which is located east of the appellant's property, and was previously approved (Condition 1 of the EA). The applicant furthermore informed me that owing to the urban setting of the appellant's property and the existing infrastructure that runs to its east, the visual impact assessment did not rate the proposed route alignment near their property as high.

With regard to the issue of further negotiations in respect of servitudes, the department informed me that they do not have any objection to further negotiations between the appellants, residents of Bardale Village and the applicant. However, any agreements that will result in non-compliance with any conditions in the EA must be reported as required by condition 43 of the EA. In addition to the above, condition 5 of the EA provides that any changes and deviations from the project description set out in the authorisation must be approved by the department in writing.

In light of the aforementioned, this ground of appeal is dismissed.

4.3.3 *CONDITION 29 OF THE EA WHICH REFERS TO RESETTLEMENT*

The appellants aver that condition 29 of the EA provides that only certain pylons may be relocated and the effect of this is that pylons located immediately adjacent to their property cannot be relocated further eastwards during the servitude negotiation process. In view of this, they submit that there remains ample opportunity for the route alignment to be moved further eastwards by at least 100m, which would considerably reduce the impacts on their

property, most particularly in the area near Blue Downs CBD, where there are large vacant areas.

In response to this ground of appeal, the applicant informed me that a move of pylons MS-C-43 to MS-C-47 further eastward is restricted by the proposed railway line and 2 existing suburbs (Happy Valley and an unnamed suburb north of Happy Valley). In addition, and with a view of protecting the socio-economic benefits of the existing communities, the applicant does not recommend the movement of pylons more than the allowable 20m eastwards, which will result in resettlement of people within the Happy Valley suburb.

Moreover, the department informed me that condition 29 of the EA does not prevent relocation of any of the approved pylon positions and they confirm that the approved servitude is not located further eastwards, as required by the appellants. However, should there be any movement of the servitude further eastwards, then surrounding land-uses being the railway and other existing suburbs should be considered.

In view of the aforementioned, I am satisfied that any agreements on the moving of the servitude further eastwards, will be done in accordance with condition 5 and 43 of the EA, and taking into account the surrounding land-uses and other existing suburbs.

This ground of appeal is therefore dismissed.

4.3.4 CONDITION 26 OF THE EA WHICH APPROVES ONLY THE MONO-POLE DESIGN PYLONS

The appellants aver that condition 26 of the EA approves only the mono-pole pylons, as opposed to the various alternative options assessed in the second EIAR, including the supporting tower. They submit that the visual intrusiveness of these towers can be subjective, as some viewers may perceive the lattice design of a self-supporting tower as less intrusive than a mono-pole design. They further argue that it is for this reason that they made it a condition of their qualified support for the proposed development that

consultation be held with them, residents of Bardale Village and the applicant regarding the design of the pylons, and that such negotiations be made a condition of approval.

In response to the concern pertaining to the type of design of the pylons to be used, I have noted that all the parties agree that condition 26 of the EA can be amended. Therefore, I agree to amend this condition to reflect that the applicant must consult with all affected property owners regarding the designs of the pylons to be used in the project.

However, note should be taken that the parties may only choose one of the designs identified in the EIAR. In addition, caution should be exercised that the overall power line should be as uniform as possible to avoid impacts on the other residents of the City of Cape Town.

4.3.5 THE NOISE IMPACT ASSESSMENT OF THE PROJECT FAILED TO ASSESS THE SOCIAL IMPACT OF CORONA AS IT IS USUALLY DETECTED WITHIN THE SERVITUDE AREA AND IN CLOSE PROXIMITY THERETO

The appellants aver that the effect of corona (breakdown of air molecules resulting from water droplets forming a conductor) will have a significant impact on their development as it is usually detected within the servitude area and in close proximity thereto.

In response to this ground of appeal, the information before me shows that the social impact of corona was assessed in the final EIAR and it indicates that corona is audible usually within the servitude area and is rated as no impact, considering the ambient noise level associated with the surrounding land uses. Furthermore, according to the department, in terms of the Noise Control Regulations, the sound level from the site measured at the nearest dwelling must not exceed 7dBA and this measure is also included in the approved Environmental Management Plan (EMP). I have also noted that the appellants refer to considerable noise levels; however they do not indicate the levels by which the acceptable standards will be exceeded.

In view of the above-mentioned measures, this ground of appeal is dismissed.

4.3.6 SENSITIVE NOISE RECEPTOR SUCH AS LEARNERS AT THE SCHOOL AND PROPERTY RESIDENTS STAND TO BE DIRECTLY AFFECTED

In response to this ground of appeal, the information before me shows that the proximity of schools to the proposed power line development has been discussed in the Social Impact Assessment which is contained in the EIAR. The impacts have been rated as medium during the construction phase and low during the operation phase. Again, as discussed above in paragraph 4.3.6, noise can only be an issue if acceptable levels will be exceeded and this measure is also included in the EMP.

This ground of appeal is therefore dismissed.

4.3.7 HEALTH IMPACTS OF THE PROPOSED POWER LINE DEVELOPMENT ON RESIDENTS AND LEARNERS

The appellants aver that there are no investigations by the applicant of the effects of corona iron pollution which may result in lung cancer, cardiovascular and respiratory illness and aggravated asthma and allergies.

In response to this ground of appeal, the information before me shows that studies were undertaken by the applicant, and the impacts from these studies have been rated as medium during the construction phase and low during the operation phase. Secondly, the approved section of the alignment that borders the appellant's property to the east is following the existing route alignment and that reduces new possible negative impacts. There is also no indication of new impacts other than the accumulation of already existing impacts. The appellants also do not provide any conclusive evidence that links the proposed development to corona iron pollution and the health risks which they refer to.

In view of the above, this ground of appeal is dismissed.

4.3.8 THE PROPOPOSED DEVELOPMENT WILL HAVE A SIGNIFICANT AND UNMITIGATABLE VISUAL IMPACT ON BARDALE VILLAGE

In response to the appellants' concern in this regard, the information before me shows that the preferred route alignment as approved by the department is located next to the existing distribution servitude and runs to the east of the appellant's property. I am informed by the department that this was done in order to limit possible visual impacts on the appellant's housing development, and was viewed as a measure to reduce further impacts by bringing together impacts of similar nature.

The Department further informed me that there will be a slight impact occurring where there is an incremental impact of additional line to existing electrical installations.

In addition, owing to the urban setting of the appellant's property and the existing infrastructure that runs to its east, the visual impact assessment did not rate the proposed route alignment near the appellant's property as high.

In light of the aforementioned information, this ground of appeal is dismissed.

4.3.9 THE PROPOPOSED DEVELOPMENT MAY RESTRICT THE REQUIRED PEDESTRIAN LINK AND RIGHT OF WAY BETWEEN HAPPY VALLEY AND BARDALE VILLAGE

According to the department, the transmission power line servitude varies from 35m to 55m wide, with an approved operational maximum of 5.5m under the towers. Based on the above, a pedestrian link could still be accommodated beneath the maximum operational height under the tower conductors of the proposed development.

In light of the above, this ground of appeal is dismissed.


APPEAL AGAINST THE ENVIRONMENTAL AUTHORISATION ISSUED TO ESKOM HOLDINGS SOC LIMITED, FOR THE CONSTRUCTION OF THE PROPOSED MITCHELL'S PLAIN SUBSTATION, SWITCHING STATION AND A 400KV DOUBLE CIRCUIT TRANSMISSION POWER LINE FROM THE PROPOSED MITCHELL'S PLAIN SUBSTATION TO ANOTHER PROPOSED SWITCHING STATION, WITHIN THE CAPE TOWN METROPOLITAN MUNICIPALITY, WESTERN CAPE PROVINCE

4.3.10 FINANCIAL LOSS AS A RESULT OF FAILURE TO DEVELOP SCHOOL ON PHASE 8

According to the appellants, should the proposed school on phase 8 not be developed as a result of the construction of the proposed development, they will suffer financial loss of approximately R5 Million and additional costs and delays associated with re-zoning for another purpose. They further submit that they might suffer unquantifiable losses associated with the decrease in value of various residential and commercial properties, which losses they anticipates will be substantial.

In response to the appellants concern in this regard, the appellants are directed to discuss potential financial loss with the applicant during the land acquisition negotiation phase. However, I am informed by the applicant that they foresee no practical reason why the proposed schools on phase 8 of the appellant's property could not be developed.

In light of the afore-mentioned, this ground of appeal is dismissed.


MRS B E E MOLEWA, MP
MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS
DATE: 2013/07/09

APPENDIX 3

MAP AND LIST OF INTERESTED & AFFECTED PARTIES