

**For attention: Ms Zama Mbanjwa**

**Environment: North Region:**

**KwaZulu Natal Department of Agriculture, Environmental Affairs and Rural Development**

**Private Bag X1048**

**RICHARDS BAY**

**3900**

**19 March 2014**

**Dear Ms. Mbanjwa**

**PROPOSED INSTALLATION OF OPTIC FIBRE CABLE IN THE VICINITY OF LADYSMITH,  
KWAZULU-NATAL**

**LEGAL QUERY**

This letter serves two purposes:

1. This letter notifies your Department of the proposed optic fibre cable installations, as described below; and
2. This letter is also a request for your Department to respond on this legal query to give your feedback with regards to our approach, and whether or not this optic fibre cable route requires any environmental authorisation, permit, licence or comment from your Department, as discussed below.

### **1. Background to the Projects**

Neotel proposes to install optic fibre cable along a provincial road reserve in the vicinity of Ladysmith, KwaZulu-Natal (**Appendices B1 and 2**). The applicant has already applied for the relevant way leaves from all role players, i.e. Municipalities, roads authorities etc. and therefore can proceed with construction if there are no need for authorisation or comment from your Department.

In most areas, the optic fibre cable will be installed via overhead lines, mounted on wooden poles, either 7 metres or 9 metres high. The following will apply with relation to the method of construction:

- The 7m poles will be planted at a depth of 1.2 m and a hole will be opened for this purpose with the dimensions of 0.35m x 0.35m (= 0.1225m<sup>2</sup> or 0.147 m<sup>3</sup>);
- The 9m poles will be planted at a depth of 1.5m and a hole will be opened for this purpose with the dimensions of 0.45m x 0.45m (= 0.2025m<sup>2</sup> or 0.3038 m<sup>3</sup>);
- Poles will be planted at intervals of 73 metres;
- Trenching will occur within most of the Urban Areas; and

- Horizontal Directional Drilling (HDD) may occur where there are sensitive natural features that need to be avoided, for example river or wetland crossings.

## 2. Relevant Environmental Legislation

Enviroworks has identified, based on the information provided to us by the client and during site visits undertaken on 13 March 2014, that the following Environmental Legislation and hence Environmental Processes may be applicable to the proposed projects:

Legislation and Process Name	Permit Type	Competent Authority
<ul style="list-style-type: none"> <li>• National Environmental Management Act, 1998 (Act No. 107 of 1998) (<b>NEMA</b>), the EIA Regulations of 2010, and GN R 544 (Listing Notice 1)</li> <li>• Basic Assessment (BA) Process</li> </ul>	Environmental Authorisation	The KwaZulu-Natal Department of Agriculture and Environmental Affairs
<ul style="list-style-type: none"> <li>• National Water Act, 1998 (Act No. 36 of 1998) (NWA)</li> <li>• Water Use Licence Application (WULA)</li> </ul>	Water Use License	Department of Water Affairs
<ul style="list-style-type: none"> <li>• National Heritage Resources Act, 1999 (Act No. 25 of 1999) (NHRA)</li> <li>• Notification in terms of Section 38</li> </ul>	Comment	South African Heritage Resources Agency (SAHRA)

## 3. Description of Environmental Management Processes

The following Listed Activities, in terms of the NEMA and the EIA Regulations of 2010, may be triggered by the proposed optic fibre routes.

**Table 1:** Activities listed under the NEMA EIA Regulations Listing Notice 1 of 2010 (Government Notice No. 544) - requires a Basic Assessment process.

Government Notice No. 544 (LN 1): Activities triggered	Project Activity/ Component
<p><b>Activity 11:</b> The construction of: <b>(xi)</b> infrastructure or structures covering 50 square metres or more where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.</p>	<p>The watercourses in Ladysmith's urban area varies between approximately 10-20m wide (<b>Photos 1 and 2</b>).</p> <p>The optic fibre cable will be installed overhead at the watercourses, thus disturbing less than 50m<sup>2</sup> so as <b>not to trigger</b> Activity 11 (xi) or Activity 18.</p>
<p><b>Activity 18:</b> The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving</p>	

<b>Government Notice No. 544 (LN 1): Activities triggered</b>	<b>Project Activity/ Component</b>
<p>of soil, sand, shells, shell grit, pebbles or rock of more than 5 m<sup>3</sup> from:</p> <p><b>(i)</b> a watercourse;</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving</p> <p>(a) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or</p> <p>(b) occurs behind the development setback line.</p>	

**Table 2:** Activities listed under the NEMA EIA Regulations Listing Notice 2 of 2010 (Government Notice No. 545) - requires a full Scoping and EIA process.

<b>Government Notice No. 545 (LN 2): Activity triggered</b>	<b>Project Activity/ Component</b>
<b>None</b>	

**Table 3:** Activities listed under the NEMA EIA Regulations Listing Notice 3 of 2010 (Government Notice No. 546) - requires a Basic Assessment process.

<b>Government Notice No. 546 (LN 3): Activities triggered</b>	<b>Proposed project activity/component</b>
<b>None</b>	

**Table 4:** Activities listed under Section 38 of the NHRA, 1999.

<b>Section 38: Activities triggered</b>	<b>Project Activity/ Component</b>
<p><b>38. (1)</b> Subject to the provisions of subsections (7), (8) and (9), any person who intends to undertake a development categorised as—</p> <p><b>(a)</b> the construction of a road, wall, powerline, pipeline, canal or other similar form of linear development or barrier exceeding 300m in length;</p> <p>must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the</p>	<p>The optic fibre cables are linear activities with a length greater than 300m and therefore the South African Heritage Resources Agency (SAHRA) will be notified of these developments.</p>

Section 38: Activities triggered	Project Activity/ Component
proposed development.	

### 3.1 Water Act

In terms of the National Water Act, 1998, any water use that is made in terms of Section 21 of the Act, requires authorisation from the Department of Water Affairs (DWA). The optic fibre cable will be in close proximity to seven minor water courses as well as the Kliprivier:

1. The watercourses in Ladysmith Urban area, W1, W2, W6 & W7 (**Photos 1,2,6 & 7**); and;
2. Two watercourses, W3 and W4, identified east of Ladysmith on the Ladysmith-Ekuvukeni road (see **Photos 3 and 4**) and one water course, W5, in the rural area east of Ladysmith (**Photo 5**).
3. The optic fibre cable will follow the main road through the Steadville Township and is in close proximity to the Kliprivier, in some cases as close as 240 metres from the river. Both sides of most of this road are already built up with dwellings or industrial infrastructure.

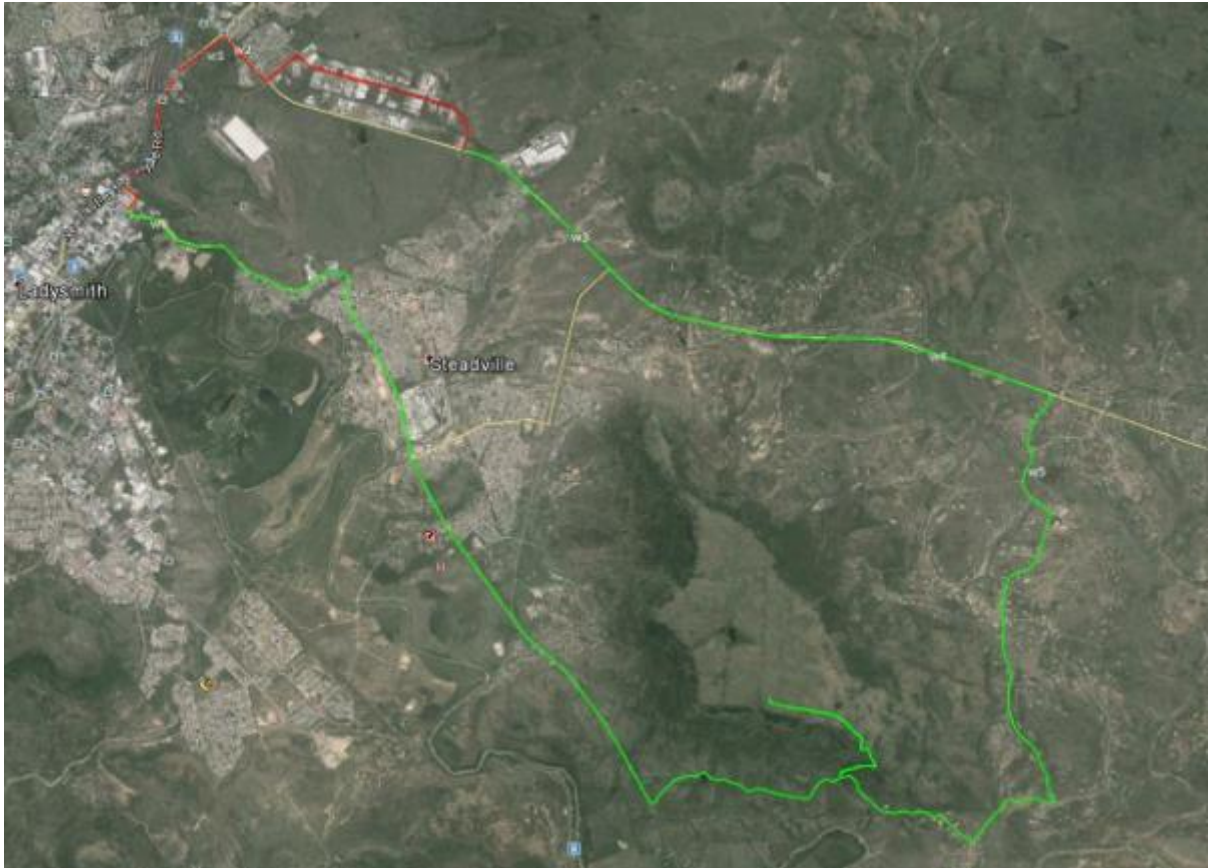
We therefore request the Department of Water Affairs’ opinion on whether the installation of the overhead optic fibre cables in close proximity to these watercourses will require an application for a Water Use Licence or a General Authorisation, as it is our opinion that planting poles in close proximity to a watercourse, within an already disturbed road reserve, do not warrant a Water Use Licence.

## 4. Findings of the Site Visit of the Ladysmith Route

This section indicates possible trigger areas with photographs as identified during the site assessment. Refer to **Appendix A** for additional photographs of the proposed development area.

### 4.1 Findings of the Ladysmith Route

There are several watercourses to be crossed along the route at Ladysmith. The width of the watercourses affected in the urban area of Ladysmith (**Photos 1, 2, 6 & 7**) varies between 10 and 20 metres wide. Trenching will be undertaken in the road reserve, up to 32m from the watercourse, with the optic fibre cable crossing the water course overhead, thus remaining 32 metres from either side of the watercourse.



**Figure 1:** Overview map of the Ladysmith optical fibre route



**Photo 1:** Watercourse in Newcastle Road, Ladysmith,  
Kwazulu Natal(W1)

*Coordinates: Longitude = 28°32'17.98"S, Latitude = -29°47'55.72"E*



**Photo 2:** Watercourse Ladysmith (W2)

*Coordinates: Longitude = 28°32'16.55"S, Latitude = -29°48'5.99"E*



**Photo 3:** Watercourse Ladysmith (W3)

*Coordinates: Longitude = 28°33'17.14"S, Latitude = -29°50'10.57"E*



**Photo 4:** Watercourse Ladysmith (W4)

*Coordinates: Longitude = 28°33'56.15"S, Latitude = -29°52'18.00"E*



**Photo 5:** Watercourse Ladysmith (W5)

*Coordinates: Longitude = 28°34'33.41"S, Latitude = -29°52'53.05"E*



**Photo 6:** Watercourse Ladysmith (W6)

*Coordinates: Longitude = 28°33'14.88"S, Latitude = -29°47'42.99"E*



**Photo 7:** Watercourse Ladysmith (W7)

*Coordinates: Longitude = 28°34'24.73"S, Latitude = -29°49'12.05"E*



## **5. Conclusion**

It is our opinion that based on the terrain assessment, the proposed Ladysmith optic fibre route do not trigger any Listed Activities in terms of the NEMA EIA Regulations, 2010 and therefore do not need Environmental Authorisation before commencement of construction. We are also of the opinion that a Water Use Licence will not be needed for the projects.

The main reasons for this is because the majority of the optic fibre routes will be installed by way of overhead lines with poles planted at 73 metre intervals within existing road reserves or urban to sub-urban areas. These poles can be planted outside the 32 metre buffer areas on both sides of any watercourses, therefore not triggering the EIA Regulations of 2010 Listed Activities.

A Construction Phase Environmental Management Programme (EMPr) will be compiled for the project and must be available upon commencement of construction activities.

We also propose that an Environmental Control Officer (ECO) be appointed to oversee the construction of the optic fibre cable route, submit ECO checklists, attend site meetings (if necessary) and complete a compliance audit at the end of the construction contract.

We therefore request that you kindly confirm if you agree with the above statements and that your Department is in agreement with the commencement of construction activities without needing an Environmental Authorisation or Water Use Licence.

**Kind Regards**

**Hein Potgieter**

**Enviroworks**

**CC: Department: Agriculture and Environmental Affairs, Kwazulu Natal**

**Department of Water Affairs**

**The South African Heritage Resource Agency**

**Appendix 1**

**Photographs of the Ladysmith route**



1. Road reserve, Industrial area east of Ladysmith.



2. Road reserve Rural area east of Ladysmith.



3. Track in Rural Area south east of Ladysmith.



4. Road reserve through Steadville township south east of Ladysmith.



5. Road reserve Ladysmith - Ezakheni Road



6. Concrete track leading up to repeater site