

## Appendix D: Key Legislation

Table 1: Applicable Legislation, Policies and/or Guidelines associated with the Sutherland Wind Energy Facility and associated infrastructure.

Legislation	Applicable Requirements	Relevant Authority	Compliance Requirements
<b>National Legislation</b>			
Constitution of the Republic of South Africa (No. 108 of 1996)	<p>In terms of Section 24, the State has an obligation to give effect to the environmental right. The environmental right states that:</p> <p><i>"Everyone has the right –</i></p> <ul style="list-style-type: none"> <li>» <i>To an environment that is not harmful to their health or well-being, and</i></li> <li>» <i>To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that:</i> <ul style="list-style-type: none"> <li>* <i>Prevent pollution and ecological degradation,</i></li> <li>* <i>Promote conservation, and</i></li> <li>* <i>Secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development."</i></li> </ul> </li> </ul>	Applicable to all authorities	There are no permitting requirements associated with this Act. The application of the Environmental Right however implies that environmental impacts associated with proposed developments are considered separately and cumulatively. It is also important to note that the "right to an environment clause" includes the notion that justifiable economic and social development should be promoted, through the use of natural resources and ecologically sustainable development.
National Environmental Management Act (No 107 of 1998) (NEMA)	<p>The 2014 EIA Regulations have been promulgated in terms of Chapter 5 of NEMA. Listed activities which may not commence without EA are identified within the Listing Notices (GNR 327, GNR 325 and GNR 324) which form part of these Regulations (GNR 326).</p> <p>In terms of Section 24(1) of NEMA, the potential impact on the environment associated with these listed activities must be assessed and reported on to the competent authority charged by NEMA with granting of the relevant environmental authorisation.</p>	<p>Department of Forestry, Fisheries and the Environment (DFFE) – Competent Authority</p> <p>Western Cape Government Department of Environmental Affairs and Development Planning,</p> <p>Department of Agriculture, Environmental</p>	The listed activities triggered by the proposed project have been identified and are being assessed as per the previous processes conducted for the project.

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		Affairs, Rural Development and Land Reform.- Commenting Authorities	
National Environmental Management Act (No 107 of 1998) (NEMA)	<p>In terms of the "Duty of Care and Remediation of Environmental Damage" provision in Section 28(l) of NEMA every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.</p> <p>In terms of NEMA, it is the legal duty of a project proponent to consider a project holistically, and to consider the cumulative effect of a variety of impacts.</p>	<p>Department of Forestry, Fisheries and the Environment (DFFE) – Competent Authority</p> <p>Western Cape Government Department of Environmental Affairs and Development Planning</p> <p>Department of Agriculture, Environmental Affairs, Rural Development and Land Reform.</p>	While no permitting or licensing requirements arise directly by virtue of the proposed project, this section finds application through the consideration of potential cumulative, direct, and indirect impacts. It will continue to apply throughout the life cycle of the project.
Environment Conservation Act (No. 73 of 1989) (ECA)	<p>The Noise Control Regulations in terms of Section 25 of the ECA contain regulations applicable for the control of noise in the Provinces of Limpopo, North West, Mpumalanga, Northern Cape, Eastern Cape, and KwaZulu-Natal Provinces.</p> <p>The Noise Control Regulations cover the powers of a local authority, general prohibitions, prohibitions of disturbing noise, prohibitions of noise nuisance, use of measuring instruments, exemptions, attachments, and penalties.</p>	<p>Department of Forestry, Fisheries and the Environment (DFFE)</p> <p>Western Cape Government Department of Environmental Affairs and Development Planning</p>	Noise impacts are expected to be associated with the construction phase of the project. As the site is located a great distance from noise sensitive receptors and communities, construction noise is unlikely to present a significant intrusion to the local community. There is therefore no requirement for a noise permit in terms of the legislation.

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	<p>In terms of the Noise Control Regulations, no person shall make, produce or cause a disturbing noise, or allow it to be made, produced or caused by any person, machine, device or apparatus or any combination thereof (Regulation 04).</p>	<p>Department of Agriculture, Environmental Affairs, Rural Development and Land Reform.</p> <p>Karoo Hoogland and Laingsburg Local Municipalities</p>	
<p>National Water Act (No. 36 of 1998) (NWA)</p>	<p>A water use listed under Section 21 of the NWA must be licensed with the Regional DWS, unless it is listed in Schedule I of the NWA (i.e. is an existing lawful use), is permissible under a GA, or if a responsible authority waives the need for a licence.</p> <p>Water use is defined broadly, and includes consumptive and non-consumptive water uses, taking and storing water, activities which reduce stream flow, waste discharges and disposals, controlled activities (activities which impact detrimentally on a water resource), altering a watercourse, removing water found underground for certain purposes, and recreation.</p> <p>Consumptive water uses may include taking water from a water resource (Section 21(a)), and storing water (Section 21(b)).</p> <p>Non-consumptive water uses may include impeding or diverting of flow in a water course (Section 21(c)), and altering of bed, banks or characteristics of a watercourse (Section 21(i)).</p>	<p>Regional Department of Human Settlements, Water and Sanitation</p>	<p>Ephemeral watercourses are present within the project development footprint as identified within the Aquatic Pre-construction Walkthrough report (<b>Appendix B1</b>).</p> <p>Where development activities impede or divert the flow of water in a watercourse, or alter the bed, banks, course or characteristics of watercourse, Section 21(c) and 21 (i) of the NWA would be triggered, and the project proponent would need to apply for a WUL or register a GA with the DWS.</p>
<p>Minerals and Petroleum Resources Development Act (No. 28 of 2002) (MPRDA)</p>	<p>In accordance with the provisions of the MPRDA a mining permit is required in accordance with Section 27(6) of the Act where a mineral in question is to be mined,</p>	<p>Department of Mineral Resources and Energy</p>	<p>Any person who wishes to apply for a mining permit in accordance with Section 27(6) must simultaneously apply for an</p>

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	<p>including the mining of materials from a borrow pit.</p> <p>Section 53 of the MPRDA states that any person who intends to use the surface of any land in any way which may be contrary to any object of the Act, or which is likely to impede any such object must apply to the Minister for approval in the prescribed manner.</p>		<p>Environmental Authorisation in terms of NEMA. No borrow pits are expected to be required for the construction of the project, and as a result a mining permit or EA is not required to be obtained.</p> <p>In terms of Section 53 of the MPRDA approval is required from the Minister of Mineral Resources to ensure that the proposed development does not sterilise a mineral resource that might occur on site.</p>
<p>National Environmental Management: Air Quality Act (No. 39 of 2004) (NEM:AQA)</p>	<p>The National Dust Control Regulations (GNR 827) published under Section 32 of NEM:AQA prescribe the general measures for the control of dust in all areas, and provide a standard for acceptable dustfall rates for residential and non-residential areas.</p> <p>In accordance with the Regulations (GNR 827) any person who conducts any activity in such a way as to give rise to dust in quantities and concentrations that may exceed the dustfall standard set out in Regulation 03 must, upon receipt of a notice from the air quality officer, implement a dustfall monitoring programme.</p> <p>Any person who has exceeded the dustfall standard set out in Regulation 03 must, within three months after submission of the dustfall monitoring report, develop and submit a dust management plan to the air quality officer for approval.</p>	<p>Department of Agriculture, Environmental Affairs, Rural Development and Land Reform / Western Cape Government Department of Environmental Affairs and Development Planning</p> <p>Namakwa District Municipality and Central Karoo District Municipalities</p>	<p>In the event that the project results in the generation of excessive levels of dust the possibility could exist that a dustfall monitoring programme would be required for the project, in which case dustfall monitoring results from the dustfall monitoring programme would need to be included in a dust monitoring report, and a dust management plan would need to be developed. However, with mitigation measures implemented, the proposed project is not anticipated to result in significant dust generation.</p>
<p>National Heritage Resources Act (No. 25 of 1999) (NHRA)</p>	<p>Section 07 of the NHRA stipulates assessment criteria and categories of heritage resources according to their significance.</p> <p>Section 35 of the NHRA provides for the protection of all archaeological and palaeontological sites, and meteorites.</p>	<p>South African Heritage Resources Agency (SAHRA)</p> <p>Northern Cape Heritage</p>	<p>The proposed project may require a permit in terms of the National Heritage Resources Act (Act 25 of 1999) prior to any fossils or artefacts being removed by professional palaeontologists and</p>

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	<p>Section 36 of the NHRA provides for the conservation and care of cemeteries and graves by SAHRA where this is not the responsibility of any other authority.</p> <p>Section 38 of the NHRA lists activities which require developers or any person who intends to undertake a listed activity to notify the responsible heritage resources authority and furnish it with details regarding the location, nature, and extent of the proposed development.</p> <p>Section 44 of the NHRA requires the compilation of a Conservation Management Plan as well as a permit from SAHRA for the presentation of archaeological sites as part of tourism attraction.</p>	<p>Resources Authority (NCHRA)</p> <p>Heritage Western Cape (HWC)</p>	<p>archaeologists. Additional information regarding this is provided in the Heritage Impact Assessment</p>
<p>National Environmental Management: Biodiversity Act (No. 10 of 2004) (NEM:BA)</p>	<p>Section 53 of NEM:BA provides for the MEC / Minister to identify any process or activity in such a listed ecosystem as a threatening process.</p> <p>Three government notices have been published in terms of Section 56(l) of NEM:BA as follows:</p> <ul style="list-style-type: none"> <li>» Commencement of TOPS Regulations, 2007 (GNR 150).</li> <li>» Lists of critically endangered, vulnerable and protected species (GNR 151).</li> <li>» TOPS Regulations (GNR 152).</li> </ul> <p>It provides for listing threatened or protected ecosystems, in one of four categories: critically endangered (CR), endangered (EN), and vulnerable (VU) or protected. The first national list of threatened terrestrial ecosystems has been gazetted, together with supporting information on the listing process including the purpose and rationale for listing ecosystems, the criteria used to identify listed</p>	<p>Department of Forestry, Fisheries and the Environment (DFFE)</p> <p>Department of Agriculture, Environmental Affairs, Rural Development and Land Reform and Nature Conservation</p> <p>Western Cape Government Department of Environmental Affairs and Development Planning</p>	<p>Under NEM:BA, a permit would be required for any activity which is of a nature that may negatively impact on the survival of a listed protected species.</p>

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	<p>ecosystems, the implications of listing ecosystems, and summary statistics and national maps of listed ecosystems (NEM:BA: National list of ecosystems that are threatened and in need of protection, (Government Gazette 37596, GNR 324), 29 April 2014).</p>		
<p>National Environmental Management: Biodiversity Act (No. 10 of 2004) (NEM:BA)</p>	<p>Chapter 5 of NEM:BA pertains to alien and invasive species, and states that a person may not carry out a restricted activity involving a specimen of an alien species without a permit issued in terms of Chapter 7 of NEM:BA, and that a permit may only be issued after a prescribed assessment of risks and potential impacts on biodiversity is carried out.</p> <p>Applicable, and exempted alien and invasive species are contained within the Alien and Invasive Species List (GNR 864).</p>	<p>Department of Forestry, Fisheries and the Environment (DFFE)</p> <p>Western Cape Government Department of Environmental Affairs and Development Planning</p> <p>Department of Agriculture, Environmental Affairs, Rural Development and Land Reform.</p>	<p>Restricted Activities and the respective requirements applicable to persons in control of different categories of listed invasive species are contained within the Alien and Invasive Species Regulations (GNR 598) published under NEM:BA, together with the requirements of the Risk Assessment to be undertaken.</p>
<p>National Environmental Management: Protected Areas Act (Act 57 of 2003)</p>	<p>The Act provide for the protection and conservation of ecologically viable areas representative of South Africa's biological diversity and its natural landscapes and seascapes. The categories consist of the following:</p> <ul style="list-style-type: none"> <li>- Special nature reserves,</li> <li>- National parks, nature reserves (including wilderness areas) and protected environments,</li> <li>- World heritage sites;</li> </ul>	<p>Department of Forestry, Fisheries and the Environment (DFFE)</p>	<p>Restrict all activities relating to the wind farm to the authorised properties.</p>

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	<ul style="list-style-type: none"> <li>- Specially protected forest areas, forest nature reserves and forest wilderness areas and</li> <li>- Mountain catchment areas</li> </ul>		
<p>Conservation of Agricultural Resources Act (No. 43 of 1983) (CARA)</p>	<p>Section 05 of CARA provides for the prohibition of the spreading of weeds.</p> <p>Regulation 15 of GNR 1048 published under CARA provides for the classification of categories of weeds and invader plants, and restrictions in terms of where these species may occur.</p> <p>Regulation 15E of GNR 1048 published under CARA provides requirement and methods to implement control measures for different categories of alien and invasive plant species.</p>	<p>Department of Forestry, Fisheries and the Environment (DFFE)</p>	<p>In terms of Regulation 15E (GNR 1048) where Category 1, 2 or 3 plants occur a land user is required to control such plants by means of one or more of the following methods:</p> <ul style="list-style-type: none"> <li>» Uprooting, felling, cutting or burning.</li> <li>» Treatment with a weed killer that is registered for use in connection with such plants in accordance with the directions for the use of such a weed killer.</li> <li>» Biological control carried out in accordance with the stipulations of the Agricultural Pests Act (No. 36 of 1983), the ECA and any other applicable legislation.</li> <li>» Any other method of treatment recognised by the executive officer that has as its object the control of plants concerned, subject to the provisions of sub-regulation (4).</li> <li>» A combination of one or more of the methods prescribed, save that biological control reserves and areas where biological control agents are effective shall not be disturbed by other control methods to the extent that the agents are destroyed or become ineffective.</li> </ul>
<p>National Forests Act (No. 84 of 1998) (NFA)</p>	<p>According to this Act, the Minister may declare a tree, group of trees, woodland or a species of trees as protected. Notice of the List of Protected Tree Species under the National</p>	<p>Department of Forestry, Fisheries and</p>	<p>A licence is required for the removal of protected trees. It is therefore necessary to conduct a survey that will determine the</p>

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	<p>Forests Act (No. 84 of 1998) was published in GNR 734.</p> <p>The prohibitions provide that “no person may cut, damage, disturb, destroy or remove any protected tree, or collect, remove, transport, export, purchase, sell, donate or in any other manner acquire or dispose of any protected tree, except under a licence granted by the Minister”.</p>	the Environment (DFFE)	number and relevant details pertaining to protected tree species present in the development area for the submission of relevant permits to authorities prior to the disturbance of these individuals.
National Veld and Forest Fire Act (No. 101 of 1998) (NVFFA)	<p>Chapter 4 of the NVFFA places a duty on owners to prepare and maintain firebreaks, the procedure in this regard, and the role of adjoining owners and the fire protection association. Provision is also made for the making of firebreaks on the international boundary of the Republic of South Africa. The applicant must ensure that firebreaks are wide and long enough to have a reasonable chance of preventing a veldfire from spreading to or from neighbouring land, it does not cause soil erosion, and it is reasonably free of inflammable material capable of carrying a veldfire across it.</p> <p>Chapter 5 of the Act places a duty on all owners to acquire equipment and have available personnel to fight fires. Every owner on whose land a veldfire may start or burn or from whose land it may spread must have such equipment, protective clothing and trained personnel for extinguishing fires, and ensure that in his or her absence responsible persons are present on or near his or her land who, in the event of fire, will extinguish the fire or assist in doing so, and take all reasonable steps to alert the owners of adjoining land and the relevant fire protection association, if any.</p>	Department of Forestry, Fisheries and the Environment (DFFE)	While no permitting or licensing requirements arise from this legislation, this Act will be applicable during the construction and operation of the proposed infrastructure establishment, in terms of the preparation and maintenance of firebreaks, and the need to provide appropriate equipment and personnel for firefighting purposes.
Hazardous Substances Act (No. 15 of 1973) (HAS)	This Act regulates the control of substances that may cause injury, or ill health, or death due to their toxic, corrosive, irritant, strongly sensitising or inflammable nature or the	Department of Health (DoH)	It is necessary to identify and list all Group I, II, III, and IV hazardous substances that may be on site and in what



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	<p>generation of pressure thereby in certain instances and for the control of certain electronic products. To provide for the rating of such substances or products in relation to the degree of danger, to provide for the prohibition and control of the importation, manufacture, sale, use, operation, modification, disposal or dumping of such substances and products.</p> <ul style="list-style-type: none"> <li>» Group I and II: Any substance or mixture of a substance that might by reason of its toxic, corrosive etc., nature or because it generates pressure through decomposition, heat or other means, cause extreme risk of injury etc., can be declared as Group I or Group II substance</li> <li>» Group IV: any electronic product, and</li> <li>» Group V: any radioactive material.</li> </ul> <p>The use, conveyance, or storage of any hazardous substance (such as distillate fuel) is prohibited without an appropriate license being in force.</p>		<p>operational context they are used, stored or handled. If applicable, a license would be required to be obtained from the Department of Health (DoH).</p>
<p>National Environmental Management: Waste Act (No. 59 of 2008) (NEM:WA)</p>	<p>The Minister may by notice in the Gazette publish a list of waste management activities that have, or are likely to have, a detrimental effect on the environment.</p> <p>The Minister may amend the list by –</p> <ul style="list-style-type: none"> <li>» Adding other waste management activities to the list.</li> <li>» Removing waste management activities from the list.</li> <li>» Making other changes to the particulars on the list.</li> </ul> <p>In terms of the Regulations published in terms of NEM:WA (GNR 912), a BA or EIA is required to be undertaken for identified listed activities.</p>	<p>Department of Forestry, Fisheries and the Environment (DFFE) – hazardous waste</p> <p>Department of Agriculture, Environmental Affairs, Rural Development and Land Reform.</p> <p>Western Cape Government</p>	<p>No listed activities are triggered by the proposed infrastructure establishment at the deviation of the powerline and substation and therefore, no Waste Management License is required to be obtained. General and hazardous waste handling, storage and disposal will be required during construction and operation. The National Norms and Standards for the Storage of Waste (GNR 926) published under Section 7(1)(c) of NEM:WA will need to be considered in this regard.</p>

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	<p>Any person who stores waste must at least take steps, unless otherwise provided by this Act, to ensure that:</p> <ul style="list-style-type: none"> <li>» The containers in which any waste is stored, are intact and not corroded or in</li> <li>» Any other way rendered unfit for the safe storage of waste.</li> <li>» Adequate measures are taken to prevent accidental spillage or leaking.</li> <li>» The waste cannot be blown away.</li> <li>» Nuisances such as odour, visual impacts and breeding of vectors do not arise, and</li> <li>» Pollution of the environment and harm to health are prevented.</li> </ul>	<p>Department of Environmental Affairs and Development Planning - general waste</p>	
<p>National Road Traffic Act (No. 93 of 1996) (NRTA)</p>	<p>The technical recommendations for highways (TRH II): "Draft Guidelines for Granting of Exemption Permits for the Conveyance of Abnormal Loads and for other Events on Public Roads" outline the rules and conditions which apply to the transport of abnormal loads and vehicles on public roads and the detailed procedures to be followed in applying for exemption permits are described and discussed.</p> <p>Legal axle load limits and the restrictions imposed on abnormally heavy loads are discussed in relation to the damaging effect on road pavements, bridges, and culverts.</p> <p>The general conditions, limitations, and escort requirements for abnormally dimensioned loads and vehicles are also discussed and reference is made to speed restrictions, power/mass ratio, mass distribution, and general operating conditions for abnormal loads and vehicles. Provision is also made for the granting of permits for all other exemptions from the requirements of the National Road Traffic Act and the relevant Regulations.</p>	<p>SANRAL - national roads</p> <p>Northern Cape Department of Transport, Safety &amp; Liaison</p> <p>Western Cape Department of Transport and Public Works</p>	<p>An abnormal load / vehicle permit may be required to transport the various components to site for construction. These include route clearances and permits will be required for vehicles carrying abnormally heavy or abnormally dimensioned loads. Transport vehicles exceeding the dimensional limitations (length) of 22m. Depending on the trailer configuration and height when loaded, some of the on-site substation components may not meet specified dimensional limitations (height and width).</p>

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Electronic Communications Act (Section 29) No 36, 29 of 2005	The Act serves to promote convergence in the broadcasting, broadcasting signal distribution and telecommunications sectors and to provide the legal framework for convergence of these sectors; to make new provision for the regulation of electronic communications services, electronic communications network services and broadcasting services; to provide for the granting of new licences and new social obligations; to provide for the control of the radio frequency spectrum.	Independent Communications Authority of South Africa	
Civil Aviation Act (No.13 of 2009) & Aviation Act (Act No 74 of 1962) 13 <sup>th</sup> amendment of the Civil Aviation Regulations (CARS) 1992	<p>This Act provides for the establishment of a stand-alone authority mandated with controlling, promoting, regulating, supporting, developing, enforcing and continuously improving levels of safety and security throughout the civil aviation industry. The SA CAA achieves the objectives set out in the Act by complying with the Standards and Recommended Practices (SARPs) of the International Civil Aviation Organisation (ICAO), while considering the local context when issuing the South African Civil Aviation Regulations (SA CARs). All proposed developments or activities in South Africa that potentially could affect civil aviation must thus be assessed by SACAA in terms of the SA CARs and South African Civil Aviation Technical Standards (SA CATS) in order to ensure aviation safety. Air Traffic and Navigation Services (ATNS) has been appointed as the Obstacle application Service Provider for Windfarms on 1 May 2021.</p> <p>Any structures exceeding 45m above ground level or structures where the top of the structures exceeds 150m above the mean ground level, the mean ground level</p>	South African Civil Aviation Authority	This Act will find application during the operation phase of the <u>Sutherland Wind Energy Facility</u> . Appropriate marking on the project infrastructure is required to meet the specifications as detailed in CAA Part 139.01.33. is required to be obtained from CAA.

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	<p>considered to the lowest point in a 3km radius around such structure.</p> <p>Structures lower than 45m, which are considered as a danger to aviation shall be marked as such when specified.</p> <p>Overhead wires, cables etc, crossing a river, valley or major roads shall be marked and in addition their supporting towers marked and lit if an aeronautical study indicates it could constitute a hazard to an aircraft.</p> <p>Section 14 of Obstacle limitations and marking outside aerodrome or heliport – CAR Part 139.01.22 related specifically to appropriate marking of wind energy facilities.</p>		
<b><i>Provincial Policies / Legislation</i></b>			
<p>WC Nature-Conservation-Ordinance-19-of-1974 and NC Nature Conservation Act No., 9 of 2009</p>	<p>This Act provides for the sustainable utilisation of wild animals, aquatic biota and plants; provides for the implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora; provides for offences and penalties for contravention of the Act; provides for the appointment of nature conservators to implement the provisions of the Act; and provides for the issuing of permits and other authorisations.</p> <p>The Act provides lists of protected species for the Province.</p>	<p>Department of Agriculture, Environmental Affairs, Rural Development and Land Reform,</p> <p>CapeNature</p> <p>Western Cape Government Department of Environmental Affairs and Development Planning</p>	<p>A collection/destruction permit must be obtained for the removal of any protected plant or animal species found on site.</p> <p>Refer the Terrestrial Walkthrough report (<b>Appendix A1</b>).</p>