

Department of Economic, Small Business Development, Tourism & Environmental Affairs (DESTE)
 Bojanala Building
 34 Markgraaf Street
 Bloemfontein
 9300

12 February 2018

RE: LEGAL QUERY FOR THE PROPOSED DEVELOPMENT OF THE SOL PLAATJE SWITCHYARD IN BETHLEHEM, FREE STATE PROVINCE.

1. Project Description:

Enviroworks wish to submit a legal query for the proposed development of a 11kV overhead power line and a switchyard in Bethlehem, Free State Province. Bethlehem Hydro's Sol Plaatje (The Client) is planning to change its interconnection to the grid. At present, the plant is directly connected via a dedicated line to the Dihlabeng/Bethlehem Municipality's Panorama sub-station. They now wish to connect directly into the Eskom Grid.

- The line and switchyard will be developed by the Applicant; where after, ownership will be transferred to Eskom;
- The proposed development will be constructed on Municipal owned land;
- The switchyard will be thirty metres (30m) in length and forty metres (40m) in width leading to a development footprint of one thousand two hundred square metres (1200m²); and,
- The switchyard will not house any transformers and will be entirely fenced. A building of approximately four metres (4m) by five metres (5m) will be development with some pole mounted electrical equipment. The entire switchyard will be gravelled.

2. Activity Co-Ordinates:

- 28°13'10.94"S
- 28°19'32.80"E

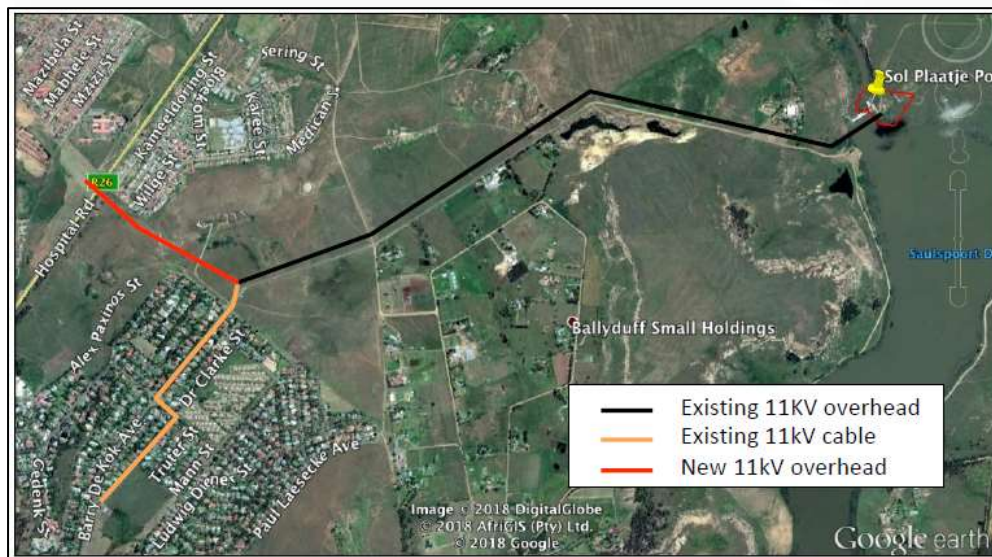


Figure 1: Layout Map of the Proposed Development.

3. Possible Triggered Activity:

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Government Notice Regulation No. 324 of 07 April 2017 (Listing Notice 3 relating to a Basic Assessment Process)

Activity 12: The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.

b. Free State

- i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;
- ii. Within critical biodiversity areas identified in bioregional plans; and,
- iii. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning.

Ecological Status of the Proposed Development:

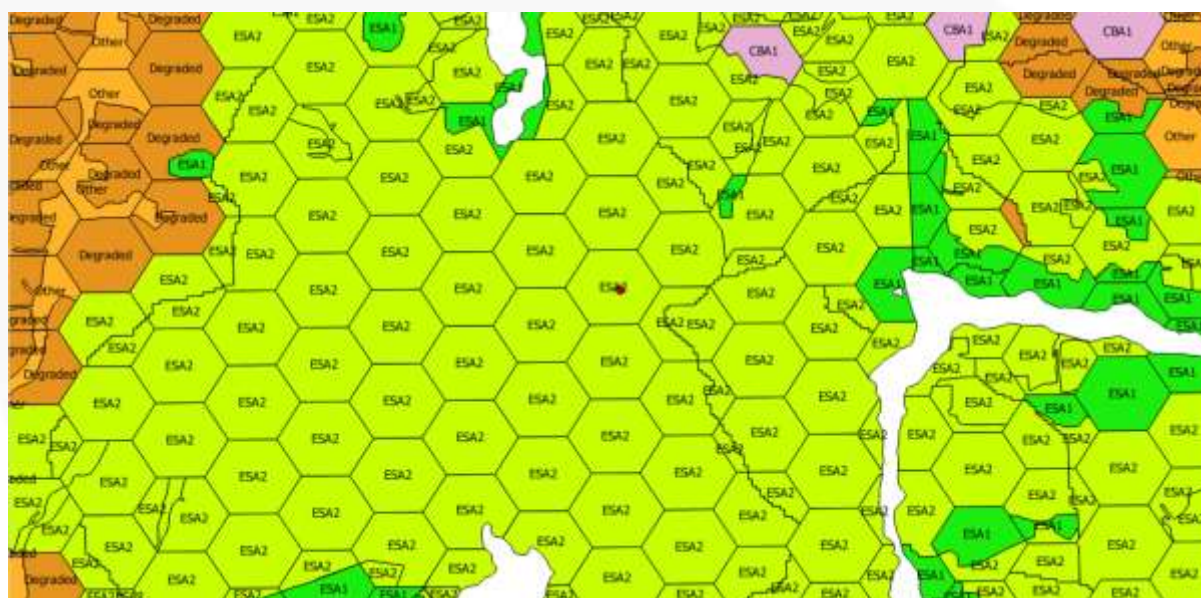


Figure 2: Ecological Category of the Proposed Development.

In light of the above mentioned listed activity Enviroworks contacted the DESTEA: Biodiversity Section (Dr Nacelle Collins) to request the information as to why the proposed area is classified as an Ecological Sensitivity Area 2 as per the Provincial Biodiversity Plan, Free State (Collins, 2015). An email response has been received (Figure 3) stating the following:

Regarding your enquiry as to the biodiversity value of the site (ESA2) proposed for development of an Eskom switchyard the following has been noted:

The area was selected as an ESA 2 on account of the Lesser Kestrel as well as the vegetation type. An ESA 2 classification implies that although the site contains environmental features that are considered to be of conservation importance, that the site is not ideally suited to ensure the persistence of such features. ESA 2 is the lowest of the conservation categories and this particular site was assigned to this category on account of the fact that:

- The vegetation is degraded;

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- The ability of the site to support the Lesser Kestrel is compromised by the presence of already existing powerline infrastructure. It should be noted that the area was selected due to the fact that it is located within the foraging range of a Lesser Kestrel roosting site, not because the Lesser Kestrel are present at the site itself; and,
- The site is located adjacent to existing residential development. Such sites are considered to be least desirable for inclusion in a conservation network due to the pressures (noise, movement and other risks e.g. fire) from the urban areas and the high likelihood of future expansion of the urban areas.

It is concluded that the development of a switchyard, although indicated to be an ESA 2, will not negatively impact on the ability of the FS DESTEA to meet its CBA targets. A Basic Assessment is therefore, in my view, unnecessary due to the extent to which the site is already compromised by the existing site characteristics as mentioned above. Due to the latter a Basic Assessment will represent time and money constraints without adding value to the process.

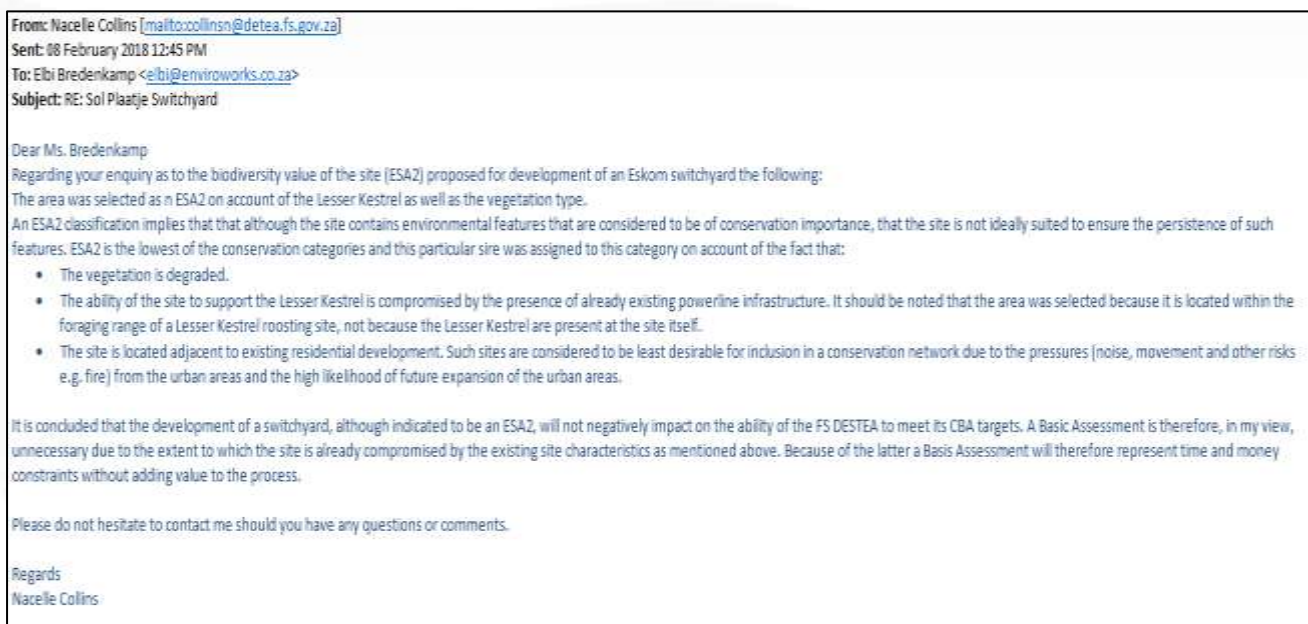


Figure 3: Original Email received from DESTEA: Biodiversity Section.

4. Legal Query:

Due to the above mentioned explanation from the DESTEA: Biodiversity Section, Enviroworks would like to enquire whether a Basic Assessment need to be conducted in terms of the National Environmental Management Act, 1998 (Act 107 of 1999) as well as Government Notice Regulations No. 327 & 324?

We look forward to your response, and thank you for the effort it is highly appreciated.

Kind Regard

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