

APPLICABLE LEGISLATION, POLICIES AND/OR GUIDELINES

The following legislation, polices and guidelines are relevant to the development of the 132/11kV Olifantshoek Substation. Through the consideration of the relevant legislation, policies and guidelines associated with the project the necessary formal requirements are identified which needs to be complied with for the duration of the project. This is considered at a national, provincial and local level.

Table 1: Applicable Legislation, Policies and/or Guidelines associated with the development of the 132/11kV Olifantshoek Substation

Legislation / Policy / Guideline	Applicable Requirements	Relevant Authority	Compliance requirements
National Legislation			
National Environmental Management Act (Act No. 107 of 1998)	<p>The EIA Regulations have been promulgated in terms of Chapter 5 of the Act. Listed activities which may not commence without an environmental authorisation are identified within these Regulations.</p> <p>In terms of S24(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>In terms of GNR 983 and 985 of June 2010 a Basic Assessment Process is required to be undertaken for the proposed project.</p>	<ul style="list-style-type: none"> » National Department of Environmental Affairs (DEA) » Northern Cape Department of Environment and Nature Conservation (NC DENC) – commenting authority 	<p>The listed activities triggered by the proposed project have been identified and assessed in the EIA process being undertaken (i.e. Basic Assessment).</p> <p>This Basic Assessment Report will be submitted to the competent and commenting authority in support of the application for authorisation.</p>
National Environmental Management Act (Act No. 107 of 1998)	In terms of the Duty of Care provision in S28(1) the project proponent must ensure that reasonable measures are taken throughout the life cycle of this project to ensure that any pollution or degradation of the environment associated with a project is avoided, stopped or minimised.	<ul style="list-style-type: none"> » National Department of Environmental Affairs (DEA) 	The implementation of mitigation measures are included as part of the EMPr and will continue to apply throughout the life cycle of the project.

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<p>National Environmental Management: Biodiversity Act (Act No. 10 of 2004)</p> <p>and</p> <p>Alien Invasive Species Regulations 2014</p>	<p>In terms of S57, the Minister of Environmental Affairs has published a list of critically endangered, endangered, vulnerable, and protected species in GNR 151 in Government Gazette 29657 of 23 February 2007 and the regulations associated therewith in GNR 152 in GG29657 of 23 February 2007, which came into effect on 1 June 2007.</p> <p>In terms of GNR 152 of 23 February 2007: Regulations relating to listed threatened and protected species, the relevant specialists must be employed during the EIA Phase of the project to incorporate the legal provisions as well as the regulations associated with listed threatened and protected species (GNR 152) into specialist reports in order to identify permitting requirements at an early stage of the EIA Phase.</p> <p>The Act provides for listing threatened or protected ecosystems, in one of four categories: critically endangered (CR), endangered (EN), 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 ecosystems, the implications of listing ecosystems, and summary statistics and national maps of listed ecosystems (National Environmental Management: Biodiversity Act:</p>	<ul style="list-style-type: none"> » National Department of Environmental Affairs (DEA) » Northern Cape Department of Environment and Nature Conservation (NC DENC) 	<p>A Specialist Ecological Impact Assessment was undertaken as part of the Basic Assessment process (refer to Appendix D1 of the Basic Assessment Report). As such the potential occurrence of critically endangered, endangered, vulnerable, and protected species, as well as critically endangered (CR), endangered (EN), vulnerable (VU) or protected ecosystems and species and the potential for them to be affected has been considered. A permit is required to remove or relocate listed species affected by the project.</p> <p>This Basic Assessment report includes a Vegetation Management Guideline as part of the EMPr (Appendix F(c) of the EMPr).</p>

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	<p>National list of ecosystems that are threatened and in need of protection, (GG 34809, GN 1002), 9 December 2011).</p> <p>Invasive Species are categorised into four categories:</p> <ul style="list-style-type: none"> » Category 1a Listed Invasive Species are those species listed as such by notice in terms of section 70(1)(a) of the Act as species which must be combatted or eradicated. » Category 1b Listed Invasive Species are those species listed as such by notice in terms of section 70(1)(a) of the Act as species which must be controlled. » Category 2 Listed Invasive Species are those species listed by notice in terms of section 70(1)(a) of the Act as species which require a permit to carry out a restricted activity within an area specified in the Notice or an area specified in the permit, as the case may be » Category 3 Listed Invasive Species are species that are listed by notice in terms of section 70(1)(a) of the Act, as species which are subject to exemptions in terms of section 71(3) and prohibitions in terms of section 71A of Act, as specified in the Notice. <ul style="list-style-type: none"> o Any plant species identified as a Category 3 Listed Invasive Species that 		

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	<p>occurs in riparian areas, must, for the purposes of these regulations, be considered to be a Category 1b Listed Invasive Species and must be managed according to regulation 3.</p> <p>Section 76 of the Act requires that all Protected Area Management Authorities and all other "Organs of State in all spheres of government", including all municipalities, draw up an "Invasive Species Monitoring, Control and Eradication Plan for land under their control." These plans have to cover all Listed Invasive Species in terms of Section 70(1) of this Act.</p>		
<p>National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008)</p>	<p>The Minister may by notice in the <i>Gazette</i> 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"> » Adding other waste management activities to the list. » Removing waste management activities from the list. » Making other changes to the particulars on the list. <p>In terms of the Regulations published in terms of this Act (GN 921), A Basic Assessment or Environmental Impact Assessment is required to</p>	<ul style="list-style-type: none"> » National Department of Environmental Affairs (DEA) » Northern Cape Department of Environment and Nature Conservation (NC DENC) 	<p>As no waste disposal site is to be associated with the proposed project, no permit is required in this regard.</p> <p>Waste handling, storage and disposal during construction and operation is required to be undertaken in accordance with the requirements of the Act, as detailed in the EMP.</p>

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	<p>be undertaken for identified listed activities (Category A and B) while Category C Activities (such as storage of waste) must be undertaken in accordance with the necessary norms and standards.</p> <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"> » The containers in which any waste is stored, are intact and not corroded or in any other way rendered unfit for the safe storage of waste. » Adequate measures are taken to prevent accidental spillage or leaking. » The waste cannot be blown away. » Nuisances such as odour, visual impacts and breeding of vectors do not arise; and » Pollution of the environment and harm to health are prevented. 		
<p>National Environmental Management: Air Quality Act (Act No. 39 of 2004)</p>	<p>S18, S19, and S20 of the Act allow certain areas to be declared and managed as "priority areas."</p> <p>Declaration of controlled emitters (Part 3 of Act) and controlled fuels (Part 4 of Act) with relevant emission standards.</p>	<ul style="list-style-type: none"> » National Department of Environmental Affairs (DEA) » Gamagara Local Municipality 	<p>Dust Control Regulations describe the measures for control and monitoring of dust, including penalties. These regulations might be applicable during the construction phase of the project. Dust management has also been accounted for in the EMPr.</p>

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	GN R 827 – National Dust Control Regulations prescribes general measures for the control of dust in all areas		
National Water Act (Act No. 36 of 1998)	<p>Water uses under S21 of the Act must be licensed unless such water use falls into one of the categories listed in S22 of the Act or falls under the general authorisation.</p> <p>In terms of S19, the project proponent must ensure that reasonable measures are taken throughout the life cycle of this project to prevent and remedy the effects of pollution to water resources from occurring, continuing, or recurring.</p>	<ul style="list-style-type: none"> » Department of Water and Sanitation 	<p>A water use license (WUL) or General Authorisation may be required in terms of Section 21 of the Act due to the drainage lines which could be impacted by the proposed project, in particular for the Alternative Substation option.</p> <p>In terms of impacts to water sources, a GA or WUL will be undertaken based on the outcome of the risk assessment matrix.</p>
Environment Conservation Act (Act No. 73 of 1989)	National Noise Control Regulations (GN R154 dated 10 January 1992)	<ul style="list-style-type: none"> » National Department of Environmental Affairs (DEA) » Northern Cape Department of Environment and Nature Conservation (NC DENC) 	Noise impacts are expected to be associated with the construction phase of the project and are not likely to present a significant intrusion to the local community. There is no requirement for a noise permit in terms of the legislation.
Minerals and Petroleum Resources Development Act (Act No. 28 of 2002)	An Environmental Authorisation and mining permit or mining right may be required where a mineral in question is to be mined (e.g. materials from a borrow pit) in accordance with the provisions of the Act.	<ul style="list-style-type: none"> » Department of Mineral Resources 	As no borrow pits are expected to be required for project, no mining permit or Environmental Authorisation is required to be obtained for borrow pits.
National Heritage Resources Act (Act No. 25 of 1999)	<ul style="list-style-type: none"> » S38 states that Heritage Impact Assessments (HIAs) are required for certain kinds of development including <ul style="list-style-type: none"> » The construction of a road, power line, pipeline, canal or other similar linear development or barrier exceeding 300 m in length; 	<ul style="list-style-type: none"> » South African Heritage Resources Agency » Northern Cape Heritage Resources Authority 	A permit may be required should any identified cultural/ heritage sites on site be required to be disturbed or destroyed as a result of the proposed development.

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	<ul style="list-style-type: none"> » Any development or other activity which will change the character of a site exceeding 5 000 m² in extent » The relevant Heritage Authority must be notified of developments such as linear developments (i.e. roads and power lines), bridges exceeding 50 m, or any development or other activity which will change the character of a site exceeding 5 000 m²; or the re-zoning of a site exceeding 10 000 m² in extent. This notification must be provided in the early stages of initiating that development, and details regarding the location, nature and extent of the proposed development must be provided. » Standalone HIAs are not required where an EIA is carried out as long as the EIA contains an adequate HIA component that fulfils the provisions of S38. In such cases only those components not addressed by the EIA should be covered by the heritage component. 		
National Forests Act (Act No. 84 of 1998)	<ul style="list-style-type: none"> » In terms of S5(1) no person may cut, disturb, damage or destroy any protected tree or possess, collect, remove, transport, export, purchase, sell donate or in any other manner acquire or dispose of any protected tree or any forest product derived from a protected tree, except under a license granted by the Minister to 	<ul style="list-style-type: none"> » Department of Agriculture, Forestry and Fisheries 	<p><i>Acacia erioloba</i> trees, protected in terms of this Act, were found to occur within the Preferred Substation Location. As such, a protected tree removal permit would need to be obtained for the removal of these trees.</p>

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	<p>an (applicant and subject to such period and conditions as may be stipulated".</p> <ul style="list-style-type: none"> » The list of protected tree species was published in GN 877 of 22 November 2013. 		
National Veld and Forest Fire Act (Act 101 of 1998)	<ul style="list-style-type: none"> » In terms of S12 the landowner would be obliged to burn firebreaks to ensure that should a veldfire occur on the property, that it does not spread to adjoining land. » In terms of S12 the firebreak would need to be wide and long enough to have a reasonable chance of preventing the fire from spreading, not causing erosion, and is reasonably free of inflammable material. » In terms of S17, the applicant must have such equipment, protective clothing, and trained personnel for extinguishing fires. 	<ul style="list-style-type: none"> » Department of Agriculture, Forestry and Fisheries 	<p>While no permitting or licensing requirements arise from this legislation, this Act will find application during the construction and operation phase of the project.</p>
Conservation of Agricultural Resources Act (CARA) (Act No 43 of 1983)	<ul style="list-style-type: none"> » Prohibition of the spreading of weeds (S5). » Classification of categories of weeds & invader plants (Regulation 15 of GN R1048) & restrictions in terms of where these species may occur. » Requirement & methods to implement control measures for alien and invasive plant species (Regulation 15E of GN R1048) <ul style="list-style-type: none"> » Category 1 - prohibited and must be controlled; » Category 2 – must be grown within a demarcated area under permit; and » Category 3 - ornamental plants that may no longer be planted, but existing plants may remain provided that all 	<ul style="list-style-type: none"> » Department of Agriculture, Forestry and Fisheries 	<p>Some alien plant species are present within the site. Alien plants are also likely to establish when the site is disturbed during construction.</p> <p>Mitigation measures have been recommended to avoid the risk of increased alien invasion during construction, operation and maintenance phases of project. All alien plants present at the site should be controlled using the best practice methods for the species present.</p>

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	<p>reasonable steps are taken to prevent the spreading thereof, except within the floodlines of watercourses and wetlands</p>		
<p>Hazardous Substances Act (Act No. 15 of 1973)</p>	<p>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 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"> » 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 to be Group I or Group II hazardous substance; » Group IV: any electronic product; » Group V: any radioactive material. <p>The use, conveyance, or storage of any hazardous substance (such as distillate fuel) is prohibited without an appropriate license being in force.</p>	<ul style="list-style-type: none"> » Department of Health 	<p>It is necessary to identify and list all the Group I, II, III, and IV hazardous substances that may be on the site and in what operational context they are used, stored or handled. If applicable, a license could be required to be obtained from the Department of Health.</p>

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<p>National Road Traffic Act (Act No 93 of 1996)</p>	<p>The technical recommendations for highways (TRH 11): "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>» Provincial Department of Transport (provincial roads)</p> <p>» South African National Roads Agency Limited (national roads)</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 could be required for vehicles carrying abnormally heavy or abnormally dimensioned loads.</p> <p>Depending on the trailer configuration and height when loaded, some of the components may not meet the specified dimensional limitations (height and width) and would need to apply for the relevant permit/ clearance.</p>
Provincial Policies / Legislation			
<p>Northern Cape Nature Conservation Act (Act No. 9 of 2009)</p>	<p>» Provides inter alia for the sustainable utilisation of wild animals, aquatic biota and plants as well as permitting and trade regulations regarding wild fauna and flora</p>	<p>» Northern Cape Department of Environment and Nature Conservation (NC DENC)</p>	<p>A permit is required for any activities which involve species listed under schedule 1 or 2. The NC DENC permit office provides an integrated permit which can</p>

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	<p>within the province. In terms of this act the following section may be relevant with regards to any security fencing the development may require.</p> <p>Manipulation of boundary fences</p> <p>19. No Person may –</p> <p>(a) erect, alter remove or partly remove or cause to be erected, altered removed or partly removed, any fence, whether on a common boundary or on such person's own property, in such a manner that any wild animal which as a result thereof gains access or may gain access to the property or a camp on the property, cannot escape or is likely not to be able to escape therefrom;</p> <p>The Act also lists protected fauna and flora under 3 schedules ranging from Specially protected (Schedule 1), protected (schedule 2) to common (schedule 3). The majority of mammals, reptiles and amphibians are listed under Schedule 2, except for listed species which are under Schedule 1.</p>		<p>be used for all provincial and Threatened or Protected Species (TOPS)-related permit requirements.</p> <p>Provincially protected plant species were found within the study area. Therefore, a permit could be required for removal of such species. A permit could be required from the NC DENC to relocate protected plants and to clear natural vegetation at the substation site.</p>

Various Guidelines have been consulted throughout this Basic Assessment Report. These include:

Eskom - Erosion Control Guidelines	Appendix B of the EMPr
Eskom – Vegetation management guideline	Appendix C of the EMPr