

TABLE 1: APPLICABLE LEGISLATION, POLICIES AND/OR GUIDELINES

(a) Please list all legislation, policies and/or guidelines that have been considered in the preparation of this Basic Assessment Report.

Legislation	Applicable Requirements	Relevant Authority	Compliance requirements
National Legislation			
National Environmental Management Act (Act No. 107 of 1998)	<ul style="list-style-type: none"> » NEMA requires, inter alia, that: <ul style="list-style-type: none"> * Development must be socially, environmentally, and economically sustainable. * Disturbance of ecosystems and loss of biological diversity are avoided, or, where they cannot be altogether avoided, are minimised and remedied. * A risk-averse and cautious approach is applied, which takes into account the limits of current knowledge about the consequences of decisions and actions. » EIA Regulations have been promulgated in terms of Chapter 5. Activities which may not commence without an environmental authorisation are identified within these Regulations. » In terms of S24(1) of NEMA, the potential impact on the environment associated with these listed activities 	Western Cape DEA&DP	Both the Draft and Final BA Report is to be submitted to the DEA&DP for review and decision making.

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	<p>must be considered, investigated, assessed and reported on to the competent authority charged by NEMA with granting of the relevant environmental authorisation.</p> <ul style="list-style-type: none"> » In terms of GNR 983 and 985 of December 2014 a Basic Assessment Process is required to be undertaken for the proposed project. 		
National Environmental Management Act (Act No. 107 of 1998)	<ul style="list-style-type: none"> » A project proponent is required to consider a project holistically and to consider the cumulative effect of potential impacts. » 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. 	Western Cape DEA&DP	<ul style="list-style-type: none"> » The holistic consideration of the potential impacts of the proposed project has found application in the BA process. » The implementation of mitigation measures are included as part of the EMPr and will continue to apply throughout the life cycle of the project.
National Environmental Management: Biodiversity Act (Act No. 10 of 2004)	<ul style="list-style-type: none"> » In terms of the Biodiversity Act, the developer has a responsibility for: <ul style="list-style-type: none"> * The conservation of endangered ecosystems and restriction of activities according to the categorisation of the area (not just by listed activity as specified in the EIA regulations). 	<ul style="list-style-type: none"> » DEA » Western Cape DEA&DP » CapeNature 	<ul style="list-style-type: none"> » As the applicant, will not carry on any restricted activity in terms of S57 and will not impact on any protected species, no permit is required to be obtained in this regard.

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	<ul style="list-style-type: none"> * The application of appropriate environmental management tools to ensure integrated environmental management of activities. * Limit further loss of biodiversity and conserve endangered ecosystems. » In terms of S57, a person may not carry out a restricted activity involving a specimen of a listed threatened or protected species without a permit issued in terms of Chapter 4. In this regard 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. » In terms of S75, (1). The control and eradication of a listed invasive species must be carried out by means of methods that are appropriate for the species concerned and the environment in which it occurs. (2) Any action taken to control and eradicate a listed invasive species must 		

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	<p>be executed with caution and in a manner that may cause the least possible harm to biodiversity and damage to the environment. (3) The methods employed to control and eradicate a listed invasive species must also be directed at the offspring, propagating material and re-growth of such invasive species in order to prevent such species from producing offspring, forming seed, regenerating, or re-establishing itself in any manner.</p> <ul style="list-style-type: none"> » 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 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. » In terms of GNR 1477 of 2009: Draft National List of Threatened Ecosystems published under S52(1)(a) of the Act provides for the listing of threatened or protected ecosystems based on national criteria. The list of threatened terrestrial ecosystems supersedes the information regarding terrestrial 		

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	<p>ecosystem status in the National Spatial Biodiversity Assessment (2004).</p> <ul style="list-style-type: none"> » GNR1187 Amendment of Critically Endangered, Endangered, Vulnerable and Protected Species List published under S56(1) of the Act. 		
<p>National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008)</p>	<ul style="list-style-type: none"> » 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. » In terms of the regulations published in terms of this Act (GN 922, 29 November 2013), a Basic Assessment or Environmental Impact Assessment is required to be undertaken for identified listed activities. » Any person who stores waste must at least take steps, unless otherwise provided by this Act, to ensure that <ul style="list-style-type: none"> (a) 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; (b) Adequate measures are taken to prevent accidental spillage or leaking; (c) The waste cannot be blown away; 	<ul style="list-style-type: none"> » Western Cape DEA&DP – general waste » DEA – hazardous waste 	<ul style="list-style-type: none"> » As no waste disposal site is to be associated with the proposed project, no permit is required in this regard. » Waste handling, storage and disposal during construction and operation is required to be undertaken in accordance with the requirements of this Act, as detailed in the EMPr.

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	<p>(d) Nuisances such as odour, visual impacts and breeding of vectors do not arise; and</p> <p>(e) Pollution of the environment and harm to health are prevented.</p>		
National Environmental Management: Air Quality Act (Act No. 39 of 2004)	<ul style="list-style-type: none"> » S18, S19 and S20 of the Act allow certain areas to be declared and managed as "priority areas" » Declaration of controlled emitters (Part 3 of Act) and controlled fuels (Part 4 of Act) with relevant emission standards » The Act provides that an air quality officer may require any person to submit an atmospheric impact report if there is reasonable suspicion that the person has failed to comply with the Act. » S53 of the Air Quality Act enacts the National Dust Control Regulations to be observed during the construction phase. 	Matzikama Local Municipality	<ul style="list-style-type: none"> » There will be no permitting or licensing requirements arising from this legislation. » This Act will find application during the construction phase of the watercourse crossings and upgrade of the roads in terms of dust emissions.
National Water Act (Act No. 36 of 1998)	<ul style="list-style-type: none"> » Under S21 of the act, water uses 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. » In terms of S19, the project proponent must ensure that reasonable measures are taken throughout the life cycle of 	Department of Water and Sanitation	<ul style="list-style-type: none"> » A general authorisation or license is a requirement for watercourse crossings in terms of Section 21 c and i of the Act for impeding the flow of water in a watercourse and/or altering the bed, banks or characteristics of a watercourse.

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	<p>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"> » A Water use licence application process is being undertaken as a separate process by the applicant
<p>Environment Conservation Act (Act No. 73 of 1989)</p>	<ul style="list-style-type: none"> » National Noise Control Regulations (GN R154 dated 10 January 1992) 	<ul style="list-style-type: none"> » Western Cape DEA&DP » Local Municipality 	<ul style="list-style-type: none"> » There is no requirement for a noise permit in terms of the legislation. » Any noisy activities carried out during the construction phase that could present an intrusion impact to the local community or adjacent landowners should be limited to 6:00am to 6:00pm Monday – Saturday (excluding public holidays). » Should these specific activities need to be undertaken outside of these times, the surrounding communities will need to be notified as well as the DEA&DP and the Local Municipality.
<p>National Forests Act (Act No. 84 of 1998)</p>	<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 an 	<p>Department of Agriculture, Forestry and Fisheries</p>	<p>A permit would need to be obtained for any protected trees that are affected. Noe are expected to be impacted by the crossings.</p>

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	<p>(applicant and subject to such period and conditions as may be stipulated".</p> <p>» GN 1042 provides a list of protected tree species.</p>		
National Veld and Forest Fire Act (Act 101 of 1998)	In terms of section 17, the applicant must have such equipment, protective clothing and trained personnel for extinguishing fires.	Department of Agriculture, Forestry and Fisheries	While no permitting or licensing requirements arise from this legislation, this Act will find application during the construction and operational phase of the project in terms of fire prevention and management.
Conservation of Agricultural Resources Act (Act No 43 of 1983)	<p>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.</p> <p>Requirement & methods to implement control measures for alien and invasive plant species (Regulation 15E of GN R1048).</p>	Department of Agriculture, Forestry and Fisheries	<p>While no permitting or licensing requirements arise from this legislation, this Act will find application during the BA and will continue to apply throughout the life cycle of the project. In this regard, soil erosion prevention and soil conservation strategies must be developed and implemented. In addition, a weed control and management plan must be implemented.</p> <p>The permission of agricultural authorities will be required if the Project requires the draining of vleis, marshes or water sponges on land outside urban areas.</p>
Provincial Legislation			

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Western Cape Noise Control Regulations: PN 627 of 1998	The control of noise in the Western Cape Province is legislated in the form of Noise Control Regulations promulgated in terms of section 25 of the Environment Conservation Act No. 73 of 1989.	Western Cape DEA&DP	In terms of Regulation 4 of the Noise Control Regulations: "No person shall make, produce or cause a disturbing noise (greater than 5 dBA), or allow it to be made, produced or caused by any person, animal, machine, device or apparatus or any combination thereof". The proposed activities are unlikely to exceed this.
Western Cape Nature and Environmental Ordinance 19 of 1974, (as amended by the Western Cape Nature Conservation Laws Amendment Act, Act 2 of 2000	The Nature and Environmental Ordinance 19 of 1974, (as amended by the Western Cape Nature Conservation Laws Amendment Act, Act 2 of 2000) defines the protection status of plants as follows: » "endangered flora" means flora of any species which is in danger of extinction and is specified in Schedule 3 or Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 1973; provided that it shall not include flora of any species specified in such Appendix and Schedule 4; (thus all Schedule 3 species). » "protected flora" means any species of flora specified in Schedule 4 or	Cape Nature	Removal or relocation of protected plant or animal species requires a permit to be obtained from the Cape Nature.

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	<p>Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 1973; provided that it shall not include any species of flora specified in such Appendix and Schedule 3.</p> <p>» “indigenous unprotected flora” means any species of indigenous flora not specified in Schedule 3 or 4;</p>		
Local Municipality Planning Documents			
<p>Matzikama Spatial Development Framework (June 2014 of the IDP 2012 – 2017)</p>	<p>The Olifants River corridor is highly disturbed from a natural systems point of view both with regards to its vegetation and river conservation status. The Olifants River supplies the two critical north and south bank canals that irrigate the intensive farming areas alongside. Care must be taken to ensure that a sufficiently wide buffer of riverine vegetation is retained in order to conserve the water quality so that the river can continue to sustainably fulfill its long-term role of providing the “life blood” to the intensive agricultural activities. Care must be taken to minimise impacts on sensitive Biodiversity in the area.</p>	<p>CapeNature & the Matzikama Local Municipality</p>	<p>Permits will be applied for to the removal and/or relocation of sensitive vegetation identified in the Ecological Impact Assessment. The Applicant is aware of his/her duties to protect and preserve the environment. Mitigation measure are and compliance with this SDF are in the EMPr attached as Appendix G of this report.</p>

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<p>Olifants Estuary Management Plan (May, 2010)</p>	<p>A key management objectives for the Olifants estuary is:</p> <ul style="list-style-type: none"> » <u>Conserve biodiversity</u> Adequate protection must be provided for estuarine biota to ensure persistence of populations, species, habitats and ecosystem processes, living resources must be protected from overexploitation and excessive disturbance. » <u>Maintain Ecosystem Health</u> The estuary should be maintained in a condition which is largely natural. This will require that it is improved from its current status as a C-class estuary (moderately modified) to a B-class estuary (largely natural). » <u>Maintain sense of place</u> Development and mining activities around the estuary should be planned to maximize aesthetic and tourism value without compromising the existing sense of place, cultural or archaeological heritage or conservation objectives. 	<p>CapeNature, DWS and DAFF</p>	<p>The proposed project in no way compromised the Sense of Place and Health of the Groenkloof Gully. By installing culverts the river is able to flow more free, thus increasing and maximising the Sense of Place and Health of the Groenkloof Gully.</p> <p>Some on sensitive vegetation is predicted for the project, however this can be minimised through an appropriate EMPr. Moreover, permits will be applied for, for the removal and/or relocation of sensitive vegetation.</p>