

Annex A

Administrative Framework

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A1 ADMINISTRATIVE FRAMEWORK

A1.1 INTRODUCTION

This Annex provides a description of the institutional framework applied to the project, and the most relevant national and provincial legislation, policies and guidelines that have been taken into consideration. The content is as follows:

- Relevant South African government departments and regulators;
- South African law relevant to environmental and social standards deemed applicable to the project; and
- International conventions and standards to which South Africa is a signatory and with which the project must comply (relating to issues such as climate change and biodiversity).

A1.2 GOVERNMENT DEPARTMENTS AND REGULATORS

There are a number of Ministries and Departments that have an interest in and will take responsibility for ensuring that the project is implemented in an environmentally responsible manner. The concept of co-operative governance is becoming increasingly important in relation to the adjudication of Environmental Impact Assessment (EIAs) in South Africa and whenever an activity falls within the jurisdiction of more than one organ of state, there must be co-ordination and co-operation between those organs of state in the consideration of EIAs and decision-making.

A1.2.1 National

Department of Environmental Affairs (DEA)

The DEA falls under the Ministry of Water and Environmental Affairs and is responsible for all environmental affairs and decision making.

In terms of South Africa's Constitution, responsibility for the environment is shared between provincial and national government. Although decision-making on EIAs is, under most circumstances, a provincial competency, this project is being processed by the DEA, who is the national controlling authority based in Pretoria. The DEA is, therefore, the competent authority for this project and will be responsible for making a decision whether or not to authorise the project.

Department of Water Affairs (DWA)

The DWA falls within the Ministry of Water and Environmental Affairs and is the custodian of South Africa's water resources. While striving to ensure that

all South Africans gain access to clean water and safe sanitation, the department also promotes effective and efficient water resources management to ensure sustainable economic and social development.

Unlike the DEA which has separate government departments in each province, DWA has regional offices in different areas.

South African Heritage Resources Agency (SAHRA)

SAHRA is the national body responsible for policy development for heritage resources management. They are the controlling authority in terms of the National Heritage Resources Act (Act 25 of 1999). SAHRA administers heritage in the province particularly where archaeology and palaeontology are the dominant concerns. Heritage Northern Cape (Ngwao Boswa Kapa Bokoni) deals largely with built environment issues at this stage. Archaeology, including rock art, graves of victims of conflict and other graves not in formal cemeteries are administered by the national heritage authority, SAHRA.

A1.2.2

Provincial

Northern Cape Department of Environment and Nature Conservation (DENC)

DENC is the provincial department responsible for tourism, environmental affairs and conservation in the Northern Cape.

DENC's mission is to 'conserve and protect the natural environment for the benefit, enjoyment and welfare of present and future generations by integrating sustainable utilisation with socio-economic development'.

With regard to the EIA for the Transnet compilation yard, DENC are regarded as an important commenting authority and will provide comment on the EIA and input to the national Department's decision-making process.

Heritage Northern Cape (Ngwao Boswa Kapa Bokoni)

As explained above, Heritage Northern Cape (Ngwao Boswa Kapa Bokoni) deals largely with the built environment issues at this stage. Amongst other things Boswa administers:

- World Heritage Sites;
- Provincial Heritage Sites;
- Heritage Areas;
- Registered Sites;
- 60 year old structures; and
- Public monuments & memorials.

In terms of Section 28(8) of the Heritage Resources Act (Act 25 of 1999) and Regulation 3(3)(a) of PN 298 (29 August 2003) (as discussed below) an application will be made to SAHRA regarding the project. HNC will provide comment on the project.

Other

- Northern Cape Department of Transport, Safety and Liaison – will be responsible for the granting of exemption permits for the conveyance of abnormal loads on public roads.
- Department of Agriculture and Land Reform and Rural Development.

A1.2.3 *Municipal*

Certain Departments, such as the Planning and Roads Departments, from the John Taolo Gaetsewe District Municipalities will also be involved as commenting authorities for the EIA. External to the EIA but also relevant to the project are land-use planning applications which are dealt with by the planning departments at a local government level.

A1.3 *LEGISLATIVE AND POLICY REQUIREMENTS*

The proposed activity is subject to legislative and policy requirements at a national and provincial level. The most important of these are listed below.

National:

- National Environmental Management Act (NEMA) (Act No. 107 of 1998), as amended;
- NEMA EIA Regulations (2006 and 2010);
- National Water Act (Act No. 36 of 1998);
- National Environmental Management: Biodiversity Act (Act No. 10 of 2004);
- National Environmental Management: Waste Act (Act No. 59 of 2008);
- National Forest Act (Act No. 84 of 1998);
- National Heritage Resources Act (Act No. 25 of 1999);
- Occupational Health and Safety Act (Act No. 85 of 1993);
- Subdivision of Agricultural Land Act (Act No. 70 of 1970);
- Department of Environmental Affairs and Tourism (DEAT) Integrated Environmental Management Information Series No.2, Scoping, 2002;
- Noise Control Regulations, Environment Conservation Act (Act No. 73 of 1989) and SANS Code 10328, Methods for Environmental Noise Impact Assessments in Terms of NEMA; and
- Conservation of Agricultural Resources Act (Act 43 of 1983).

Provincial – Northern Cape:

- Northern Cape Planning and Development Act (Act 7 of 1998); and
- Northern Cape Nature Conservation (Act 9 of 2009).

A brief description of the requirements in the above listed Acts and Regulations is provided below.

Section 24 of the National Environmental Management Act (NEMA) as amended gives effect to the South African Constitution, which states that all South African citizens have a right to an environment that is not harmful to their health or well being.

Key principles of NEMA are described in **Chapter 1** of the Act and include the following:

- Development must be socially, environmentally and economically sustainable;
- Environmental management must be integrated;
- Decisions concerning the environment must take into account the needs, interests and values of all I&APs;
- Community well-being and empowerment must be promoted through environmental education and awareness, and the sharing of knowledge and experience;
- Decisions must be taken in an open and transparent manner; and
- Access to information must be provided in accordance with law.

Chapter 5 of NEMA deals with Integrated Environmental Management and focuses on promoting the use of appropriate environmental tools, such as Environmental Impact Assessment. Section 24 requires that activities be investigated that may have a potential impact on the environment, socio-economic conditions, and cultural heritage. The results of such investigations must be reported to the relevant authority. Procedures for the investigation and communication of the potential impact of activities are contained in Section 24 (4) of the Act, which requires that:

- The potential impact, including the cumulative effects of the activity and its alternatives must be investigated;
- The significance of the potential impact must be assessed;
- Mitigation measures which minimise adverse environmental impacts must be investigated;
- The option of not implementing the activity must be considered;
- There must be public participation, independent review and conflict resolution in all phases of the investigation and assessment of impacts; and
- Where an activity falls within the jurisdiction of more than one organ of state, there must be co-ordination and co-operation between those organs of state in the consideration of assessments.

Chapters 1 and 5 of NEMA provide a basis for consideration of potential impacts associated with a proposed development, by the competent authority.

These chapters provide the framework legislation for the more detailed EIA regulations (see *Section A1.3.2* below). These regulations form the basis of ERM's approach to the EIA.

Section 28 of the Act is specific regarding “duty of care” for the environment and remediation of environmental damage. Accordingly, 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. The Act defines pollution broadly as any change in the environment caused by substances, radioactive or other waves, or emissions of noise, odours, dust or heat.

The environmental authorities may direct an individual or organisation to rectify or remedy a potential or actual pollution problem. If such a directive is not complied with, the authorities may undertake the work and recover the costs from the responsible party.

Section 28 would be relevant to the construction and operational phase of the proposed development. The proponent is obligated, in terms of NEMA, to implement measures and take actions to prevent any form of pollution to air, water or land.

A1.3.2 *NEMA EIA Regulations*

On 18 June 2010 revised EIA Regulations (Government Notice No R. 543, 544, 545 and 546) were promulgated in terms of Section 24(5) of NEMA. These regulations came into effect on 1 August 2010, replacing the regulations of 21 April 2006. A description of these regulations is provided below.

The Minister of Water and Environmental Affairs has in terms of Sections 24(2)(a) and (d) of NEMA, listed the activities which may have a detrimental effect on the environment in Government Notices GN544, 545 and 546. The regulations require that written authorisation is obtained from the Minister or his delegated authority, in this case the national Department of Environmental Affairs (DEA), in respect of which the investigation, assessment and communication of potential impacts of these activities must follow the procedure as described in Regulations 26 to 35 of the EIA Regulations. Such authorisation, which may be granted subject to conditions, will only be considered once the regulatory requirements have been met. Government Notice R543 sets out the procedures that need to be complied with.

The activities that would be relevant to the project are listed in the Environmental Impact Assessment (EIA) Regulations. Activities from listings GN544, GN545 and GN546 would be relevant. GN544 activities require a Basic Assessment process and GN545 activities require a more comprehensive Scoping and EIA process. Given the applicability of activities from all three listings, a Scoping and EIA process is being undertaken.

The EIA Regulations, June 2010 (Government Notice R544, R545 and R546) identify activities which may have a detrimental effect on the environment and the listed activities which may be triggered by the project. These include:

Table 1.1 *Relevant Listed Activities (EIA Regulations, 2010)*

Relevant Notice	Activity Numbers (in terms of Relevant Notice)	Description of Listed Activity
GN545, 2010	11	<p><i>The construction of railway lines, stations or shunting yards, excluding:</i> <i>(ii) railway lines, shunting yards and railway stations in industrial complexes or</i> <i>(ii) underground railway lines in a mining area;</i> <i>and additional railway lines within the reserve of an existing railway line;</i></p> <p>The proposed activity comprises the construction of a new compilation yard with associated infrastructure including railway lines and shunting areas at Mamatwane in the Northern Cape.</p>
GN545, 2010	15	<p><i>Physical alteration of undeveloped, vacant or derelict land to commercial, recreational, industrial or institutional use where transformation is 20 hectares or more:</i></p> <p><i>Except where such physical alteration takes place for:</i> <i>linear development activities: or agriculture or afforestation where activity 16 in this Schedule will apply.</i></p> <p>The compilation yard will involve the transformation of undeveloped land over an extent of 20 hectares or more; the dimensions of which is being confirmed during the Scoping Phase.</p>
GN544, 2010	2	<p><i>The construction of facilities or infrastructure for the storage of ore or coal that requires an atmospheric emissions license in terms of the National Environmental Management: Air Quality Act (Act No 39 of 2004).</i></p> <p>The Common User Facility at the compilation yard will require the storage of manganese and iron ore.</p>
GN544, 2010	11	<p><i>The construction of infrastructure or structures covering 50 square metres or more within 32 metres of a watercourse.</i></p> <p>Certain components of the proposed activity may be located with 32 metres of a watercourse; this is being confirmed during the Scoping Phase.</p>

Relevant Notice	Activity Numbers (in terms of Relevant Notice)	Description of Listed Activity
GN544, 2010	13	<p><i>The construction of facilities or infrastructure for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 but not exceeding 500 cubic metres.</i></p> <p>Diesel storage with a combined capacity in excess of 80 cubic meters but not exceeding 500 cubic metres will be required.</p>
GN544, 2010	18	<p><i>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock from</i></p> <p><i>(i) a watercourse;</i> <i>(ii) the sea;</i> <i>(iii) the seashore;</i> <i>(iv) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater.</i></p> <p>Construction related activities in the vicinity of the river (Vlermuislaagte River) south of the compilation yard may trigger this listed activity. This is being confirmed during the Scoping Phase.</p>
GN544, 2010	22	<p><i>The construction of a road, outside urban areas,</i></p> <p><i>(i) with a reserve wider than 13,5 meters or,</i> <i>(ii) where no reserve exists where the road is wider than 8 metres, or</i> <i>(iii) for which an environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 in Notice 545 of 2010.</i></p> <p>It is anticipated that the construction of the compilation yard may include road construction, the layout and dimensions is being confirmed during the Scoping Phase.</p>
GN544, 2010	23 (ii)	<p><i>The transformation of undeveloped land to industrial use, outside an urban area bigger than 1 hectare.</i></p> <p>The compilation yard is proposed to be located outside of an urban area over an area of more than one hectare; the dimensions of the affected areas is being confirmed during the Scoping Phase.</p>

The National Water Act (NWA) is the primary legislative instrument for the control and management of South Africa's water resources. In addition to ensuring equitable access to and use of water, a key function of the NWA is to ensure the protection of a national water resource from pollution. Many provisions in the NWA are similar to those in NEMA, but refer specifically to pollution of a water resource, whereas NEMA refers to any change in an environment (land, water, air). The definition of "water resource" includes surface water bodies, groundwater and aquifers.

Section 19 of the Act deals with the prevention and remediation of pollution. It is the responsibility of an owner of land, a person in control of land or a person who occupies or uses that land to take all reasonable measures to prevent pollution of a water resource from occurring, continuing or recurring. If these measures are not taken the authorities may do whatever is necessary to prevent the pollution or remedy its effects and may recover all reasonable costs. This Section includes pollution that may arise from contaminated stormwater.

Section 20 deals with the control of emergency incidents. In this Section, "incident" includes any incident or accident in which a substance –

- pollutes or has the potential to pollute a water resource; or
- has, or is likely to have, a detrimental effect on a water resource.

The onus is therefore on Transnet to ensure that storm water runoff is not contaminated, particularly during the construction phase.

The Act requires a person to obtain a Water Licence for 'water use', which in terms of Section 21 includes the following activities which may be relevant to the project:

- taking water from a water resource;
- storing water;
- impeding or diverting the flow of water in a watercourse;
- disposing of waste in a manner which may detrimentally impact on a water resource; and
- altering the bed, banks, course or characteristics of a watercourse.

Generally a water use must be licensed unless it is listed in Schedule I of the Act, is an existing lawful use, is permissible under a general authorisation, or if a responsible authority waives the need for a licence. Section 39 of the Act allows the Minister to issue General Authorisations for certain activities which then do not require a water use licence. General Authorisation GNR 398, 26 March 2004, gives the landowner/occupier/lawful user permission to alter the bed, banks or characteristics of a water course (including for roads) without the requirement for a Water Use License, as long as the following conditions are met:

- The alteration:
 - does not impact on a water resource or on another person's water use, property or land; and
 - is not detrimental to the health and safety of the public in the vicinity of the activity
- The natural migration patterns of aquatic biota and the sustainable ecological functioning of the system are not interfered with;
- The alteration activity does not extend for more than 50 metres continuously or a cumulative distance of 100 metres on that property or land, measured along the watercourse;
- The volume of flow is not reduced except for natural evaporative losses;
- Strict erosion control measures are to be taken during and after construction to ensure no erosion of the bed and banks of the river takes place;
- The water quality is not detrimentally affected; and
- All necessary measures are taken to stabilize the structure and surrounding area. This will include:-
 - rehabilitation of the riparian habitat integrity by ensuring that during rehabilitation only indigenous shrubs and grasses are used in restoring the bio-diversity;
 - rehabilitation of disturbed and degraded riparian areas to restore and upgrade the riparian habitat integrity to sustain a bio-diverse riparian ecosystem;
 - removal of alien vegetation and all new alien vegetation recruitment must be controlled; and
 - annual habitat assessment must be carried out to monitor the sustainability of the diversion and compliance with the above conditions. Action must be taken to rectify any impacts
- Any structure built fully or partially in or across a watercourse does not exceed-
 - a height of 10 metres, measured from the natural level of the bed of the watercourse on the downstream face of the structure to the crest of the structure;
 - a width of 10 metres, measured at the widest part of the structure; or
 - a length of 50 metres, measured from one edge of the watercourse to the other; or
 - occur within a distance of 500 meters upstream or downstream of another structure that alters the bed, banks or characteristics of the same watercourse, measured along the watercourse.

Transnet must ensure that any potential water crossings meet the above requirements or alternatively a Water Use License may be required. Section 2.8 (1) of the General Authorisation states that a person who uses water in terms of this authorisation must submit a registration form for the registration of the water use if the alteration involves mining related activities or occurs within a distance of 1 000 meters from any other alteration, measured along the watercourse.

A1.3.4 National Environmental Management: Biodiversity Act (Act 10 of 2004)

Amongst other objectives, the Biodiversity Act seeks to provide for the management and conservation of biological diversity and its components, the sustainable use of indigenous biological resources, and the fair and equitable sharing of benefits arising from bio-prospecting of indigenous biological resources. It further seeks to provide for co-operative governance in biodiversity management and conservation.

Chapter 1 provides that the Act give effect to conventions affecting biodiversity to which South Africa is a party. These would include the United Nations Convention on Biological Diversity (CBD), the Convention on Trade in Endangered Species (CITES), the Ramsar Convention and the Bonn Convention.

Significantly, the Act provides for the protection of ecosystems and species that are threatened or in need of protection and seeks to prevent the introduction and spread of alien or invasive species. As such, it controls and regulates:

- certain threatening activities occurring in identified ecosystems;
- certain activities which may negatively impact on the survival of identified threatened or protected species; and
- certain restricted activities involving alien or listed invasive species.

In accordance with the Biodiversity Act, an important function of the EIA and associated specialist studies is to ensure that sensitive vegetation is not detrimentally affected by the installation and construction activities associated with the establishment of the compilation yard and its associated infrastructure.

A1.3.5 National Forests Act (No. 84 of 1998):

The National Forests Act provides for the protection of forests as well as specific tree species, quoting directly from the Act: *“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 licence or exemption granted by the Minister to an applicant and subject to such period and conditions as may be stipulated”*.

Some loss of vegetation is an inevitable consequence of the project. The density of the protected tree species *Acacia erioloba* and *Acacia haematoxylon* at the project site is high and some loss of individuals of these species is likely to be unavoidable.

A1.3.6

National Heritage Resources Act (Act 25 of 1999)

The protection and management of South Africa's heritage resources is controlled by the National Heritage Resources Act (NHRA), 1999 (Act No. 25 of 1999). The objective of the NHRA is to introduce an integrated system for the management of national heritage resources.

Archaeology, Palaeontology and Meteorites

According to Section 35 (Archaeology, Palaeontology and Meteorites) and Section 38 (Heritage Resources Management) of the South African National Heritage Resources Act (SAHRA), palaeontological heritage impact assessments (PIAs) and archaeological impact assessments (AIAs) are required by law in the case of developments in areas underlain by potentially fossiliferous (fossil-bearing) rocks, especially where substantial bedrock excavations are envisaged, and where human settlement is known to have occurred during prehistory and the historic period. Depending on the sensitivity of the fossil and archaeological heritage, and the scale of the development concerned, the palaeontological, and archaeological impact assessment required may take the form of (a) a stand-alone desktop study, or (b) a field scoping plus desktop study leading to a consolidated report. In some cases these studies may recommend further palaeontological and archaeological mitigation, usually at the construction phase. These recommendations would normally be endorsed by the responsible heritage management authority, Heritage Northern Cape (HNC), to whom the reports are submitted for review.

As part of the EIA, a Heritage Impact Assessment (including both archaeology and palaeontology) will be submitted to HNC and SAHRA to elicit comments. Comments received will be included in the Comments and Responses Report in *Annex C*.

Table 1.2 outlines when a permit is required depending on the sensitivity of the heritage resources.

Table 1.2 ***Permitting requirements for fossil, built environment and Stone Age archaeology***

PERMIT APPLICATION SECTION 35 - FOSSILS, BUILT ENVIRONMENT FEATURES, SHIPWRECKS & STONE AGE ARCHAEOLOGY (Ref : NHRA 1999: 58):

- (a) destroy, damage, excavate, alter, deface or otherwise disturb any archaeological or palaeontological site or any meteorite;
 - (b) destroy, damage, excavate, remove from its original position, collect or own any archaeological or palaeontological material or object or any meteorite;
 - (c) trade in, sell for private gain, export or attempt to export from the Republic any category of archaeological or palaeontological material or object, or any meteorite.
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Burial Grounds and Graves

A Section 36 permit application is made to the South African Heritage Resources Agency (SAHRA) which protects burial grounds and graves that

are older than 60 years, and must conserve and generally care for burial grounds and graves protected in terms of this section, and it may make such arrangements for their conservation as it sees fit. SAHRA must also identify and record the graves of victims of conflict and any other graves which it deems to be of cultural significance and may erect memorials associated with these graves and must maintain such memorials. A permit is required under the conditions listed in *Table 1.3*.

Table 1.3 *Permitting requirements for burial grounds and graves older than 60 years to Heritage Northern Cape (HNC) and historic burials to the South African Heritage Resources Agency (SAHRA)*

PERMIT APPLICATION SECTION 36 - BURIAL GROUNDS & GRAVES

(REF: NHRA 1999 : 60)

(a) destroy, damage, alter, exhume or remove from its original position or otherwise disturb the grave of a victim of conflict, or any burial ground or part thereof which contains such graves

(b) destroy, damage, alter, exhume, remove from its original position or otherwise disturb any grave or burial ground older than 60 years which is situated outside a formal cemetery administered by a local authority; or

(c) bring onto or use at a burial ground or grave referred to in paragraph (a) or (b) any excavation equipment, or any equipment which assists in the detection or recovery of metals

(d) SAHRA or a provincial heritage resources authority may not issue a permit for The destruction or damage of any burial ground or grave referred to in subsection (3)(a) unless it is satisfied that the applicant has made satisfactory arrangements for the exhumation and re-interment of the contents of such graves, at the cost of the applicant

Table 1.4 *Permitting requirements for heritage resources management*

PERMIT APPLICATION SECTION 38 (Ref: NHRA 1999 : 62)

- (a) the construction of a road, wall, powerline, pipeline, canal or other similar form of linear development or barrier exceeding 300 m in length;
 - (b) the construction of a bridge or similar structure exceeding 50 m in length;
 - (c) any development or other activity which will change the character of a site exceeding 5 000 m² in extent; or
 - (ii) involving three or more existing erven or subdivisions thereof; or
 - (iii) involving three or more erven or divisions thereof which have been consolidated within the past five years; or
 - (iv) the costs of which will exceed a sum set in terms of regulations by SAHRA or a provincial heritage resources authority;
 - (d) the re-zoning of a site exceeding 10 000 m² in extent; or
 - (e) any other category of development provided for in regulations by SAHRA or a provincial heritage resources authority.
-

A1.3.7 *Occupational Health and Safety Act (Act 85 of 1993)*

The purpose of the OHSA (Act 85 of 1993) is to provide for the health and safety of persons at work or in connection with the use of equipment and machinery. It also provides for the protection of people other than employees from hazards arising from or in connection with activities of persons at work. In this regard an employer is required to bring about and maintain, as far as reasonably practicable, a work environment that is safe and without risk to the health and well-being of workers. The Act is administered by the Department of Labour who have established provincial offices. Occupational health and safety inspectors from these provincial offices undertake inspections and investigations at workplaces to ensure compliance with OHSA.

The Act covers *inter alia*:

- General duties of employers to their employees;
- Electing of Health and Safety Representatives and establishment of Health and Safety Committees; and
- Reporting and investigation of incidents.

Health and safety aspects of the project, as well as employment and labour relations within the construction, operation and decommissioning phases of the project, will need to be undertaken in accordance with OHSA.

A1.3.8 *Subdivision of Agricultural Land Act (Act No. 70 of 1970)*

The land use is currently zoned for mainly for agricultural use and the project aims to acquire land which is currently zoned for agricultural use. In terms of Section 7 of the Legal Succession to the South African Transport Services Act, 1989 read with the Sub-Division of Agricultural Land Act, 1970, Transnet would not need to follow a process of rezoning.

A1.3.9 *Integrated Environmental Management Information Series*

The Department of Environmental Affairs and Tourism (DEAT) Information Series of 2002 consists of 20 documents. The documents were drafted as sources of information on the concepts and approaches to Integrated Environmental Management (IEM). IEM is a key instrument of NEMA and provides the overarching framework for the integration of environmental assessment and management principles into environmental decision-making. The aim of the information series is to provide general information on techniques, tools and processes for environmental assessment and management. ERM have referred to these various documents for information on the most suitable approach to the environmental assessment process for the project.

The Information series on assessing impacts is particularly relevant to the EIR. This document outlines the approaches to and the objectives of assessing impacts.

A1.3.10 *Northern Cape Nature Conservation (Act 9 of 2009)*

The Northern Cape Nature Conservation Act 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 within the province. In terms of this act the following section may be relevant with regards to any security fencing the development may require.
Manipulation of boundary fences

19. No Person may –

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;

A1.3.11 *Municipal Bylaws*

- Certain activities related to the project may, in addition to national legislation, be subject to control by municipal by-laws for aspects such as planning, dust, noise and roads, as well as the John Taolo Gaetsewe District Municipality Integrated Development Plans (IDPs).

A1.3.12 *International Guidelines*

- IFC Performance Standards; and
- Equator Principles.

The IFC applies Performance Standards (PS) to manage social and environmental risks and impacts and to enhance development opportunities in its private sector financing. The PS may also be applied by other financial

institutions electing to apply them to projects in emerging markets. Together, the following eight PS establish standards that the client is to meet throughout the life of an investment by IFC or other relevant financial institution:

- PS 1: Social and Environmental Assessment and Management System;
- PS 2: Labour and Working Conditions;
- PS 3: Pollution Prevention and Abatement;
- PS 4: Community Health, Safety and Security;
- PS 5: Land Acquisition and Involuntary Resettlement (n/a);
- PS 6: Biodiversity Conservation and Sustainable Natural Resource Management;
- PS 7: Indigenous Peoples (n/a);
- PS 8: Cultural Heritage.

PS 1 establishes the importance of: (i) integrated assessment to identify the social and environmental impacts, risks, and opportunities of projects; (ii) effective community engagement through disclosure of project-related information and consultation with local communities on matters that directly affect them; and (iii) the client's management of social and environmental performance throughout the life of the project. PS 2 through 8 establish requirements to avoid, reduce, mitigate or compensate for impacts on people and the environment, and to improve conditions where appropriate. While all relevant social and environmental risks and potential impacts should be considered as part of the assessment, PS 2 through 8 describe potential social and environmental impacts that require particular attention in emerging markets. Where social or environmental impacts are anticipated, the client is required to manage them through its Social and Environmental Management System consistent with PS 1.

The Equator Principles (EPs) similarly are a credit risk management framework for determining, assessing and managing environmental and social risk in project finance transactions. Project finance is often used to fund the development and construction of major infrastructure and industrial projects. The EPs are adopted voluntarily by financial institutions and are applied where total project capital costs exceed US\$10 million. The EPs are primarily intended to provide a minimum standard for due diligence to support responsible risk decision-making.

The EPs, based on the IFC's Performance Standards on social and environmental sustainability and on the World Bank Group Environmental Health and Safety Guidelines (EHS Guidelines), are intended to serve as a common baseline and framework for the implementation by each adopting institution of its own internal social and environmental policies, procedures and standards related to its project financing activities.

The relevant sections of the World Bank General Environment, Health and Safety Guidelines, as well as the industry specific Guideline on Railways would also be applicable.

This EIA will be undertaken in alignment with the requirements of the EP and IFC Performance Standards. The EIA of course is only one step in the process of complying with the EP and IFC Performance standards and also would require the developer to keep to commitments made during the EIA process and to build on this by also meeting its commitments towards pre-construction and post construction monitoring, the conditions of approval that the DEA may impose, the EMPr and an ongoing commitment towards environmental best practice. It is therefore recommended that the developer also commit to establishing an Environmental Management System against which the developer's ongoing performance can be monitored.