



Legal, Authorisations,
Compliance and Enforcement

Environmental Impact Assessment Process

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Strategic Infrastructure Developments
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environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA



Why the need for an EIA

- Section 24 of the National Environmental Management Act of 1998 (NEMA) states that the activities may not commence without Environmental Authorisation being issued by the Competent Authority;
- These activities are published in the Listed Activity Notices; i.e. Listing Notice 1, 2 or 3;
 - Activity 1 of LN1: *“The development of facilities or infrastructure for the transmission and distribution of electricity—
(i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts;
or
(ii) inside urban areas or industrial complexes with a capacity of 275 kilovolts or more;...”*
 - Activity 2 of LN2: *“The development of railway lines, stations or shunting yards excluding —
(i) railway lines, shunting yards and railway stations in industrial complexes or zones;
(ii) underground railway lines in a mining area; or
(iii) additional railway lines within the railway line reserve.”*
- Listing Notice 1 follows a BA and Listing Notice 2 follows a full scoping EIA;
- The timeframes are 197 and 300 days respectively;
- Appeal has a 90 day timeframe, Appeal suspends EA.

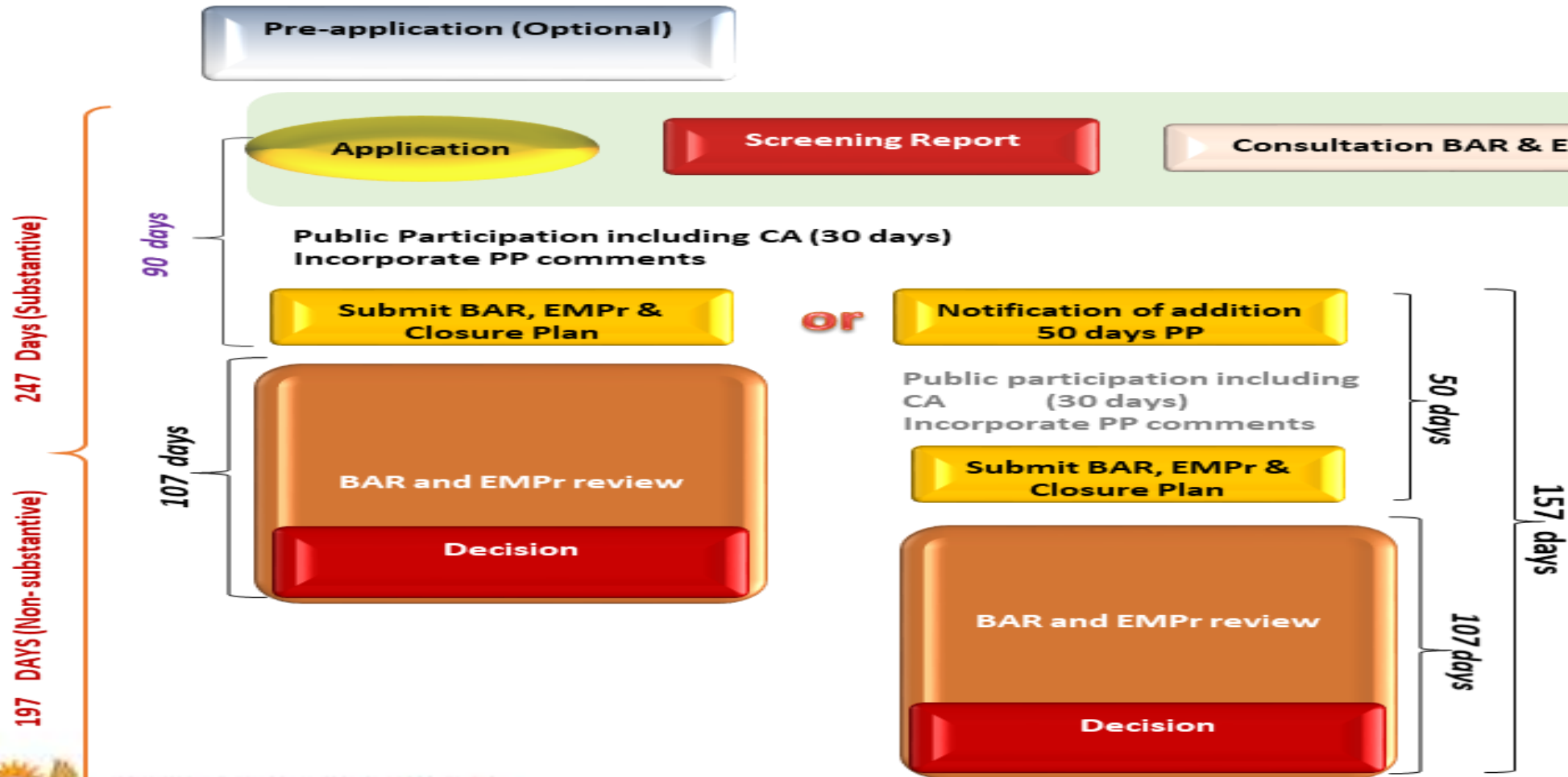


Why DEA is the CA

- Section 24C of NEMA explains the Procedure for identifying competent authority (CA), i.e. whether an application has to be submitted to the National Department of Environmental Affairs (DEA), the Provincial Department of Environmental Affairs or the Department of Mineral Recourses (DMR);
- The DEA will be the CA for developments:
 - *has a development footprint that falls within the boundaries of more than one province or traverses international boundaries; or*
 - *is undertaken, by—*
 - *(i) a national department;*
 - *(ii) a provincial department responsible for environmental affairs or any other organ of state performing a regulatory function and reporting to the MEC, etc.*
- The DMR will be the CA for an application, if the project is directly related to a mining activity.



Basic Assessment



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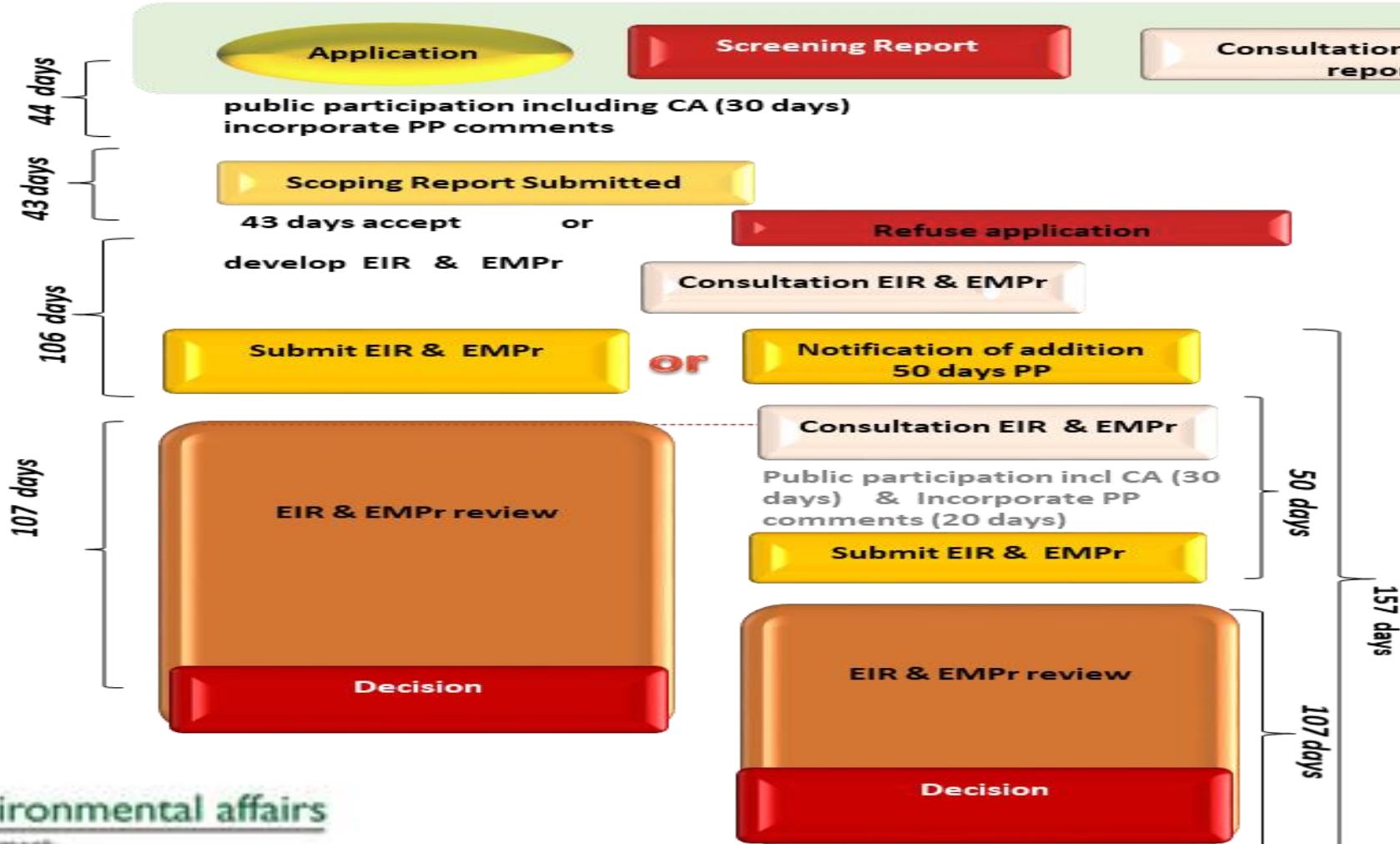


S&EIR

Pre-application (Optional)

350 DAYS (Substantive)

300 DAYS (Non-substantive)



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EIA Process



Submit Final
Reports for
decision making

- Timeframes for submitting report:
 - Scoping and EIA Process:
 - 44 days to submit SR from lodging application;
 - 106 days to submit to ElAr from acceptance of SR
 - Basic Assessment Process:
 - 90 days to submit BAR from lodging application
- All these reports must include a compulsory 30 day PPP.



EIA Process



Lodge
Application

- The Application Form must be completed in line with Regulation 16 of the EIA Regulations, 2014 as amended and must include inter alia:
 - be on the relevant CA Application Form;
 - be originally signed;
 - include proof of payment if applicable;
 - provide EAP's details and declaration
 - description of development and location;
 - Screening Tool Report;
 - Sector Classification;
 - consent from Landowner; and,
 - include undertaking under oath.



EIA Process



Screening Tool Report

- Regulation 16(1)(b)(v) of the EIA Regulations 2014 states that an application for EA must include *“the report generated by the National Web based Environmental Screening Tool, once this tool is operational”*;
- Screening Tool was specifically designed to provide data for the EIA process;
- is web based, free and can be used by non-GIS specialists;
- houses data based on national environmental datasets;
- does a sensitivity “screening” but does not replace a site verification and assessment;
- ability to apply the mitigation hierarchy to impact assessment
- Applicants and EAP’s are aware of new tools developed e.g. EMFs, standards etc.




Legend

 Province

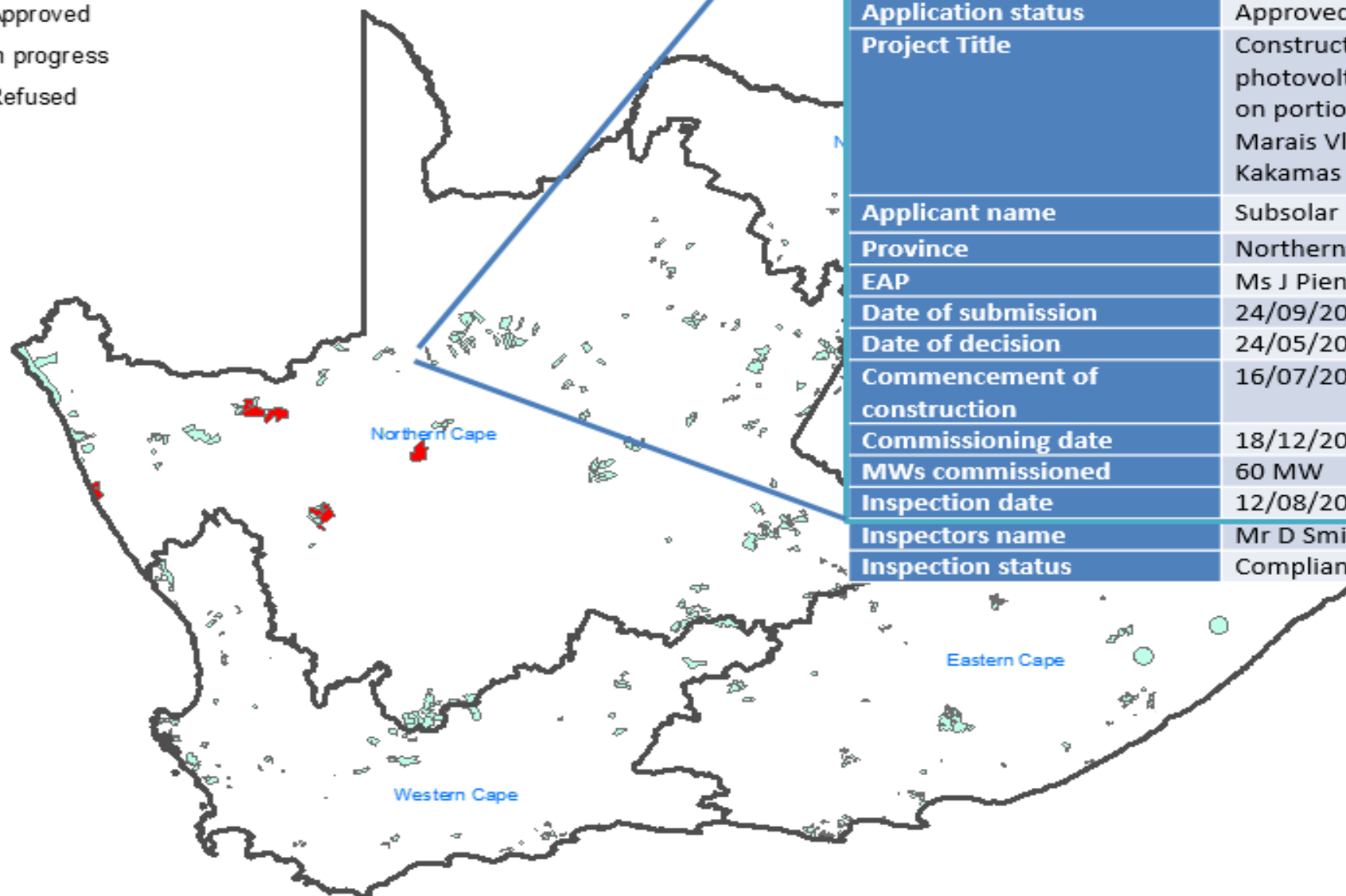
Screening Application Site

Application Status

 Approved

 In progress

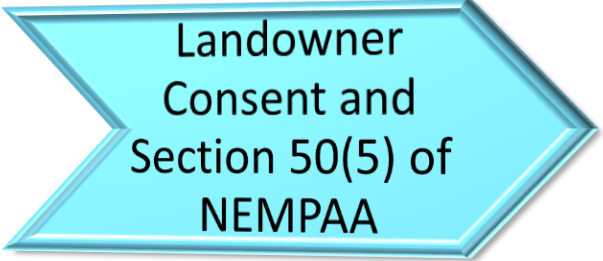
 Refused



EIA number	12/12/20/2185
NEAS number	DEA/EIA/0000200/2011
EIA Process	SEIR
Application category	Utility/Energy/renewable energy/ Solar PV
Application status	Approved
Project Title	Construction of a 2MW photovoltaic power facility on portion 4 of the farm Marais Vlei 69, near Kakamas
Applicant name	Subsolar Energy Pty Ltd
Province	Northern Cape
EAP	Ms J Pienaar
Date of submission	24/09/2016
Date of decision	24/05/2017
Commencement of construction	16/07/2018
Commissioning date	18/12/2019
MWs commissioned	60 MW
Inspection date	12/08/2018
Inspectors name	Mr D Smile
Inspection status	Compliant



EIA Process



Landowner
Consent and
Section 50(5) of
NEMPAA



CONSENT

- Regulation 39(1) of the EIA Regulations, 2014 states that consent from the landowner or person in control of the land is required prior to applying for an EA.
- This does not need to be complied with if the development is:
 - *Linear Activities;*
 - *strategic integrated projects as contemplated in the Infrastructure Development Act, 2014.*
- Land Owner Consent is written approval from the landowner allowing you to develop on his/her property/properties.
- Needed for applications for EA as well as amendments.



EIA



3.

3. Findings

After consideration of the information and factors listed above, the Department made the following findings –

After c
finding

a)

a) A section of the constructible corridor traverses the [REDACTED] Private Nature Reserve, which is a National Environmental Management: Protected Areas Act (NEM:PA) Section 23 nature reserve managed by the landowner. Any activities which take place within the nature reserve must be compliant with the Protected Area Management Plan (PAMP) which is compiled in terms of NEM:PAA.

b)

b) The non-compliance with Section 50(5) of the NEM:PAA, which states that *"No development, construction or farming may be permitted in a national park, nature reserve or world heritage site without the prior written approval of the management authority."* As such, no approval from the landowner was obtained and submitted as part of this application.

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c)

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Environmental Authorisation

c) The EIA in its current form is not adequate to make an informed decision on the abovementioned application.

d)

In view of the above, the competent authority is of the opinion that the proposed listed activities will conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities may not be mitigated to acceptable levels and should therefore be prevented altogether. The Environmental Authorisation is accordingly refused.

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EIA Process

Regulation 21(2)

- In accordance with Regulation 21(2) of the EIA Regulations, 2014 as amended, the scoping process does not need to be complied with for an application that has either lapsed or refused due to insufficient information on condition that:
 - *findings of the SR is still valid and the environment has not changed;*
 - *a new application is lodged, and proof that I&AP's who participated as part of the previous application, have been notified;*
 - *the application is submitted by the same applicant for the same development;*
 - *The EIAR was subjected to a public participation process of at least 30 days;*
 - *is submitted within a period of 02 years from the date of the acceptance of the SR.*



EIA Process

Conduct
PPP on Draft
Reports

- Public Participation Process (PPP) must be completed in line with Chapter 6 (Reg 39 – 44) of the EIA Regulations, 2014 as amended and must include inter alia:
 - consent from the Landowner;
 - fix notice boards;
 - advertise in a newspaper;
 - notify and give written notice to:
 - neighbours;
 - the municipality;
 - other organs of state,
 - maintain an I&AP database;
 - provide opportunity to comment on reports; and,
 - be undertaken for a minimum of 30 days.



EIA Process

Regulation 40(3)

- Regulation 40(3) of the EIA Regulations, 2014 as amended states that:

(3) Potential or registered interested and affected parties, including the competent authority, may be provided with an opportunity to comment on reports and plans contemplated in subregulation (1) prior to submission of an application but must be provided with an opportunity to comment on such reports once an application has been submitted to the competent authority.



EIA Process

Regulation
19(1)(b) and
23(1)(b)



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EIA Process

Regulation 3(7)

The EAP requested a fifty (50) day extension to be able to include the additional specialist investigation information in the EAP.

Based on the timeframes to submit the EAP to conduct a BIA pre-application meeting.

Regulation 45(1) provides that the EAP must be submitted within the timeframes, and a failure to do so constitutes a lapse of the time-frame of regulation 3(7).

As such, this Department is unable to submit the EAP within the timeframes of regulation 45.

You are hereby advised that the EAP, as amended, is being submitted to the Department.

Should you have any queries or wish to discuss the points raised above, please do not hesitate to contact our offices.



Poor planning leads to poor results



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EIA Process



Decision on Application

- The CA must within 107 days of receiving the final BAR or ElAr in terms of Regulation 24 of the EIA Regulations, 2014 as amended:
 - *grant environmental authorisation, with or without conditions;*
or
 - *refuse environmental authorisation.*



EIA Process



Amendments
to an EA

- Can only amend an EA which is still valid
- Part 1
No change of Scope or change of holder
- Part 2
will result in an increased level or change in the nature of impact where such level or change in nature of impact

“and the change does not, on its own, constitute a listed or specified activity.”



Powerline Corridors

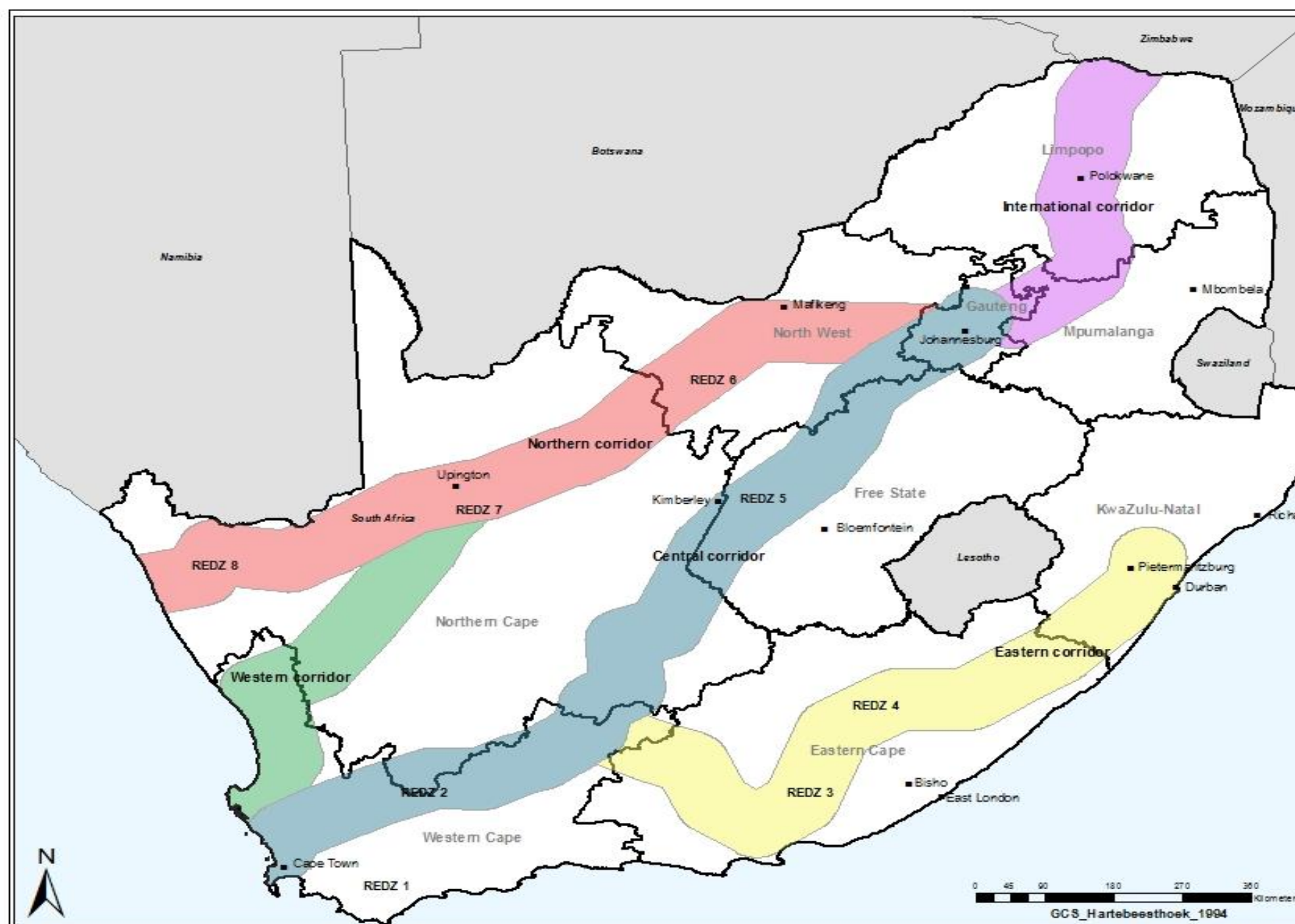
- On 16 February 2018, the Minister gazetted the procedure for applying for an EA within the powerline corridor;
- All large scale electricity transmission and distribution facilities, which trigger Item 9 of LN2, i.e. *“The development of facilities or infrastructure for the transmission and distribution of electricity with a capacity of 275 kilovolts or more, outside an urban area or industrial complex,...”*
- The greater part of the facility must be contained inside the strategic corridor for this process to apply;
- The application to be submitted must include a pre-negotiated route with the respective landowners;
- The applications falling in this process will include applications for EA and applications for amendments;
- The associated regulatory process and fee applicable then applies;
- The decision making timeframe from the CA is reduced from 107 days to 57 days;
- The same level and detail with regards to the assessment conducted in a S/EIA would still apply in the BA process.



STRATEGIC TRANSMISSION CORRIDORS

LEGEND:

- Cities/Towns
- Central corridor
- Eastern corridor
- International corridor
- Northern corridor
- Western corridor



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Thank You

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