

In the matter regarding an

**APPLICATION FOR A GENERATION LICENCE**

By

**KARPOWERSHIP SA SALDANHA BAY (RF) (PTY) LTD**

Application No.: NERSA-1532172523-62559

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**DECISION**

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Based on the available information and an analysis conducted on the application for a generation licence by Karpowership SA Saldanha Bay (RF) (Pty) Ltd, the Energy Regulator at its meeting held on 21 September 2021:

1. **approved** that Karpowership SA Saldanha Bay (RF) (Pty) Ltd be issued with a generation licence;
2. **approved** the charge rates used to calculate the tariff in Schedule 9 of the Power Purchase Agreement, as indicated in Table 1 below:

**Table 1: Karpowership SA Saldanha Bay (RF) (Pty) Ltd tariff charge rates**

Charge rates	Agreed value	Unit of measure
CCR <sub>b</sub>	■	Rand/MWh
NCCR <sub>b</sub>	■	Rand/MWh
FOMR <sub>b</sub>	■	Rand/MWh
NFOMR <sub>b</sub>	■	Rand/MWh
FCR	■	Rand/MJ

RCRrb	██████	Rand/MWh
VCCRgb	██████	Rand/MWh
DAIRb	██████	Rand/MW
DARRb	██████	Rand/MW
CAIRb	██████	Rand/MW
CARRb	██████	Rand/MW
TC	██████	R/MJ
TR	██████	R/MJ

3. **noted** the Power Purchase Agreement between Karpowership SA Saldanha Bay (RF) (Pty) Ltd and Eskom Holdings (SOC) Ltd; and
4. **approved** the Decision and Reason for Decision document.

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## REASONS FOR DECISION

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### INTRODUCTION

1. The Integrated Resource Plan 2019 (IRP 2019) identified that there is a risk of load-shedding and/or extensive use of diesel peaking plants due to Eskom plants' low Energy Availability Factor (EAF). Short-term supply and demand side interventions were then proposed to mitigate this risk. One of the interventions was to procure 2000 to 3000MW.
2. To implement the interventions in the IRP2019, the Minister of Mineral Resources and Energy (the Minister) issued a proposed determination to the National Energy Regulator of South Africa (NERSA) for concurrence in accordance with section 34 of the Electricity Regulation Act, 2006 (Act. No.4 of 2006) ('the ERA'). Section 34 states:
  34. (1) *The Minister may, in consultation with the Regulator –*
    - (a) *determine that new generation capacity is needed to ensure the continued uninterrupted supply of electricity;*
    - (b) *determine the types of energy sources from which electricity must be generated, and the percentages of electricity that must be generated from such sources;*
    - (c) *determine that electricity thus produced may only be sold to the persons or in the manner set out in such notice;*
    - (d) *determine that electricity thus produced must be purchased by the persons set out in such notice;*
    - (e) *require that new generation capacity must –*
      - (i) *be established through a tendering procedure which is fair, equitable, transparent, competitive and cost-effective;*
      - (ii) *provide for private sector participation.*
3. NERSA considered the proposed determination and concurred with the Determination on 25 May 2020. The Minister then published the Determination in the Government Gazette Number 43509 of 7 July 2020. The determination stated that:
  - 3.1 *2 000 MW should be procured from a range of energy source technologies in accordance with the short-term risk mitigation capacity allocated under heading 'Others', for the years 2019 to 2022 in Table 5 of the Integrated Resource Plan for Electricity 2019 to 2030 (published as GN 1360 of 18*

*October 2019 in Government Gazette No. 42784 ('IRP 2019'). The procurement programme shall target connection to the Grid for the new generation capacity as soon as reasonably possible, but by no later than December 2021.*

- 3.2 Electricity produced from the new generation capacity ('the electricity') shall be procured through one or more tendering procedures that are fair, equitable, transparent, competitive and cost-effective and shall constitute Independent Power Producer (IPP) procurement programmes as contemplated in the Regulations ('procurement programmes').*
  - 3.3 The procurement programmes shall target connection to the Grid for the new generation capacity as soon as reasonably possible, in line with the time table set out in Table 5 of the IRP 2019. Deviations from the time table set out in Table 5 are permitted to the extent necessary taking into account all relevant factors including prevailing energy security risks, the time required for efficient procurement and the required construction timelines for such new generation capacity facility.*
  - 3.4 The electricity may only be sold to the entity designated as the buyer in paragraph 3.7 below, and only in accordance with the power purchase agreements and other project agreements to be concluded in the course of the procurement programmes.*
  - 3.5 The procurer, in respect of the procurement programmes, will be the Department of Mineral Resources and Energy.*
  - 3.6 The role of the procurer will be to conduct the procurement programmes. This includes preparing any requests for proposals and/or related and associated documentation, negotiating the power purchase agreements, facilitating the conclusion of the other agreements and facilitating the satisfaction of any conditions precedent to financial close which are within its control.*
  - 3.7 The electricity must be purchased by Eskom Holdings SOC Limited.*
  - 3.8 The electricity must be purchased from Independent Power Producers.*
4. The Department of Mineral Resources and Energy (DMRE), through the Independent Power Producer (IPP) Office, then released Request for Proposal

(RfP) Documents for the procurement of the 2000MW on 24 August 2020. The following were the key requirements for the RfP:

- 4.1 No specific technologies were targeted and the specifications were stipulated by the Transmission System Operator (SO) which, among others, included the need for each project to be dispatchable between 05:00 and 21:30 daily in response the instruction from the SO.
  - 4.2 The project provides ancillary services, which are necessary for grid stability.
  - 4.3 Multiple generation facilities located at different geographical locations could be bid as a single dispatchable project, without being prescriptive of the types of technologies.
  - 4.4 The projects must reach commercial operation as soon as possible, but no later than December 2022.
5. The bid evaluation criteria were based on the principles of the minimum technical, financial, economic development and legal qualification criteria that a bidder is required to comply with prior to the price evaluation process.
  6. The final evaluation of the bids was then based on 90% bid price and 10% economic development commitments.
  7. On 18 March 2021, the Minister announced that eight bidders (totalling 1 845.76MW) were successful and three bidders (totalling 150MW) were eligible, but further evaluation on price had to be done.
  8. Table 2 lists the eight preferred bidders and the technology description.

**Table 2: Details of preferred bidders**

APPLICATION		TECHNICAL INFORMATION		
PROJECT NAME	EVALUATION PRICE (ZAR/MW)	LOCATION	MIX TECHNOLOGY INSTALLED CAPACITY	CONTRACTED CAPACITY
		NEAREST TOWN, PROVINCE	(MW)	(MW)
Oya Energy Hybrid Facility	1 550.34	Matjiesfontein, Western Cape	Solar PV – 155MW BESS – 40MW Diesel – 106MW Onshore Wind – 82.50MW	128.00
Umoyilanga Energy	1 721.64	Upington, Northern Cape & Nelson Mandela Bay, Eastern Cape	Solar PV – 138MW BESS – 75MW LPG – 12MW Onshore Wind – 77.00MW	75

ACWA Power Project DAO	1 462.00	Groblershoop, Northern Cape	Solar PV – 422MW BESS – 150MW Diesel – 15MW	150
Karpowership SA Coega	1 468.87	Nelson Mandela Bay, Eastern Cape	Floating, Modular Reciprocating Gas Engines – 450MW	450
Karpowership SA Richards Bay	1 496.03	Richards Bay, KZN	Floating, Modular Reciprocating Gas Engines – 450MW	450
Karpowership SA Saldanha	1 686.48	Saldanha Bay, Western Cape	Floating, Modular Reciprocating Gas Engines – 320MW	320
Mulilo Total Coega	1 885.37	Nelson Mandela Bay, Eastern Cape	Solar PV – 216MW Reciprocating Gas Engines – 197.76MW	197.76
Mulilo Total Hydra Storage	1 515.97	De Aar, Northern Cape	Solar PV – 216MW BESS – 150MW Diesel – 20MW	75

## BACKGROUND

9. A powership is a floating power plant that is either self-propelled or barge mounted. The powership consists of wide ranges of installed capacities for utility size operations with no construction risk. A powership is ready for power generation within a short period of time. The power generated is fed directly into the transmission network from the on-board high voltage substation, not requiring any land acquisition.
10. Powerships are designed and built using the latest dual fuel engine technology, which operates in combined-cycle mode to maximise efficiency. Fuel flexibility through natural gas, liquefied natural gas (LNG) or low sulphur heavy fuel oil (HFO) ensures the lowest cost of delivered power with no capital outlay. Powerships deliver the most competitive cost of electricity and are ready to operate within three to six months from arrival.
11. Karpowership owns and operates the world's first integrated floating LNG-to-power fleet. Karpowership currently has 30 completed powerships with an installed capacity exceeding 5000MW. The installed capacity per powership ranges from 30 to 620MW. Karpowership is operating its powerships in countries such as Cuba, Senegal, The Gambia, Guinea-Bissau, Guinea Conakry, Sierra Leone, Ghana, Sudan, Mozambique, Lebanon and Indonesia.

## THE APPLICANT

12. As indicated in Table 2 above, Karpowership SA Saldanha Bay (RF) (Pty) Ltd (Karpowership or 'the Applicant') is one of the bidders that were selected as preferred bidders.
13. On 13 April 2021, Karpowership SA Saldanha Bay (RF) (Pty) Ltd applied for a generation licence in accordance with section 7 of the ERA, which requires that no person may operate a generation facility without a licence issued by the Energy Regulator.
14. Karpowership SA Saldanha Bay (RF) (Pty) Ltd is a company registered in accordance with the laws of the Republic of South Africa. Its company registration number is 2020/754347/07.

## SHAREHOLDING STRUCTURE

15. Karpowership SA Saldanha Bay (RF) (Pty) Ltd is wholly owned by Karpowership SA(Pty) Ltd and the shareholding structure of Karpowership SA (Pty) Ltd the company is as indicated in Table 3 below.

**Table 3: Karpowership SA Saldanha Bay (RF) (Pty) Ltd's shareholding**

Shareholding structure during licensing stage	
Company Name	Shareholding (%)
Karadeniz Holdings Ltd	51
Powergroup SA (Pty) Ltd	49

16. Karadeniz Holdings Ltd is a Turkish energy company that owns and operates land-based power plants and powerships through its subsidiary, Karpowership. It is based in Istanbul, Turkey.
17. Powergroup SA (Pty) Ltd is a company registered in accordance with the laws of the Republic of South Africa. Its company registration number is 2020/246599/07.

## THE APPLICATION

18. On 13 April 2021, NERSA received an application for the amendment of a generation licence from Karpowership SA Saldanha Bay (RF) (Pty) Ltd.

19. The application was, however, incomplete as the financial model was outstanding. The Applicant submitted the financial model on 20 April 2021.
20. On 24 May 2021, NERSA and Karpowership SA Saldanha Bay (RF) (Pty) Ltd had a meeting to discuss the adequacy of the application submitted by the Applicant. At this meeting, NERSA requested that the Applicant submit a revised application form.
21. On 31 May 2021, the Applicant submitted an updated application form that replaced the application form submitted on 13 April 2021.
22. The following supporting documents were received with the application:
  - 22.1 Pro-forma Power Purchas Agreement
  - 22.2 Cost estimate letter
  - 22.3 Draft Request for budget quote
  - 22.4 Draft Transmission Agreement with Eskom, which was not signed
  - 22.5 Single line diagram
  - 22.6 Draft request for budget quote, which was not signed.
23. On 27 August 2021, the Applicant submitted the following documents:
  - 23.1. Permit for permanent or temporary above-ground storage tank for a flammable liquid; and
  - 23.2. No objection letter from the South African Civil Aviation Authority;
24. The following documents are outstanding:
  - 24.1 Approval for the Environmental Authorisation from the DFFE
  - 24.2 The rights from Transnet National Port Authority (TNPA) for port access, construction, operation and maintenance
  - 24.3 Fuel Supply Agreement
  - 24.4 NERSA-approved gas licence.

## **REGULATORY LEGAL ANALYSIS**

25. Electricity regulation with regards to licensing is premised on the provisions of the ERA and NERSA cannot appropriate any powers to itself which are not detailed in the law. The framework for licensing has been thoroughly detailed in section 10(2) of the ERA and the framework is complemented by the related licensing procedure approved by the Energy Regulator.
26. NERSA licences the operation of generation facility and nothing else. It must also be recognised that; the licensing of the facility is not the penultimate of the



approval that the licensee has to receive within the Republic. Section 10(2) of the ERA contains myriad of issues which some are matters that NERSA must evaluate and take a decision on or simply, there are matter that are so fundamental to the powers of NERSA regarding licensing which licensing cannot be completed without them being satisfied.

27. Section 10(2) further includes referral matters, these are matters which NERSA does not have the powers to evaluate and conclude on their appropriateness, relevance and conclusivity thereto because the powers to deal with them resides in another authority outside of NERSA. Subsection (2)(e) requires the applicant to submit plans and their ability to comply. The legislature deliberately did not use the words approved plans as that would have been much easier because that would have been a submission of decision.
28. The plans and ability referred to in the subsection is not in terms of the language of the section, the final position in that when submitted to NERSA, the applicant has satisfied and complied with the basket of approval required but an appreciation of the due diligence which the applicant has made of the environment enabling the construction and operation of the facility when complete.
29. The powers that NERSA has regarding the provision of the section is to scan the environment which the application relates to and demand the submission of the information if not submitted and that achieves rationality to the decision and performance of NERSA mandate. It will be irrational for NERSA to misdirect itself that it has powers to determine the correctness of the information which the related work must be performed by another authority. It will also be irrational for NERSA to consider information from the newspapers and not verified to make a decision. Caution should be extremely exercised on media reports which may distort the narrative of the application and misguide the exercise of powers.

**Evidence that the Applicant has plans and ability to comply with Section 10(2) e.**

30. On 10 September 2021, the applicant submitted a plan in accordance with s10(2)(e) of the ERA, which provides that the application must demonstrate "the plans and the ability of the applicant to comply with applicable labour, health, safety and environmental legislation, subordinate legislation and such other requirements as may be applicable".
31. Karpowership SA's appeal was lodged with the Department of Forestry, Fisheries and the Environment (DFFE), within the required timeframe, on 13 July 2021. Each appeal has site-specific details that the DFFE will be required to consider when adjudicating

on the outcome of the appeals. However, the over-arching grounds of appeal are common across all three project sites.

32. In terms of the EIA regulations, the DFFE then has a maximum of 50 days to make a final decision on the appeal if no external expert is appointed to review the matter. A final decision may only be delivered on 5 November 2021 if the DFFE takes the full 50 days' period to make its final decision on the appeal.
33. Karpowership SA commenced engagements with TNPA immediately following the appointment of the applicant as a preferred bidder under RMI4P where it was agreed that any agreement between the parties needed to be concluded pursuant to a directive issued by the Minister of Transport under section 79(1) of the National Ports Act. Karpowership SA also engage with the Deputy Director-General of the Ministry of Transport ("DDG") and the DDG also indicated that the Ministry has engaged with the TNPA and approved that the TNPA commence commercial discussions with Karpowership SA on a confidential and non-binding basis whilst the section 79 application was being processed by the Ministry. The parties are working towards concluding the relevant agreements required to secure onshore and offshore access rights in the ports in accordance with the National Ports Act, 12 of 2005. The applicant has provided a draft term sheet in relation to the relevant agreement(s) to the TNPA to facilitate with the preparation of the agreement by TNPA.

## **APPLICATION APPROVAL PROCESS**

34. On 5 and 10 June 2021, the Applicant published notices in *Die Burger* and *Weslander* respectively, notifying members of the public about the proposed project and inviting them to submit objections or comments to NERSA.
35. The adverts also notified members of the public that the applications had also been published on the Applicant and NERSA's websites.
36. NERSA published notices to comment on the application and invited interested and affected stakeholders to a public hearing scheduled for 19 August 2021, in the following newspapers:
  - 36.1 The *Business Day*, on 16 July 2021
  - 36.2 The *City Press*, on 18 July 2021
  - 36.3 *The Star*, on 19 July 2021
  - 36.4 The *Sowetan*, on 19 July 2021.

## OBJECTORS AND INTERVENING PARTIES

37. During the period for objections or comments on the applicant's application, three objections were received.
38. On 6 July 2021, NERSA received a letter from the Centre of Environmental Rights (CER) (representing Ground works) requesting an extension on the commenting period of the public participation process. NERSA granted an extension allowing CER to send their written objections no later than 2 August 2021. On 4 August 2021, CER submitted an objection.
39. On 24 June 2021 and 2 August 2021, Ms Lizelle McDermott and The Green Connection submitted their objections regarding Karpowership SA Saldanha Bay (RF) (Pty) Ltd's application for an electricity generation licence.
40. Below is a summary of issues and NERSA's analysis

**Table 4: Summary of Stakeholder objections and NERSA's analysis**

	Grounds for objections	NERSA's Analysis
1.	<p>There is no guarantee that South Africa will not have excess capacity as what happened in Ghana when Ghana contracted the Karpowerships.</p> <p>This project will bring low economic impact to South Africa. Only 106 jobs will be created during construction and 44 during operation.</p> <p>The EIA was refused.</p>	<p>There is no basis for comparing South Africa to Ghana. South Africa has an aging coal fleet, and new generation capacity is needed as indicated in the IRP2019. South Africa is also experiencing load shedding.</p> <p>The number of jobs being quoted is incorrect. The facility will create 4002 persons months jobs during construction and 34160 persons months during operations. It is factually correct that Powerships are more labour intensive than renewables.</p> <p>The reason given for refusing the EIA was that there was not enough public consultation on the draft EIA reports, the public was given less than 30 days to review the final reports. The final reports also contained significant new information not</p>

		<p>canvassed during the public participation process. Lastly, there was no proper underwater noise impact studies. The Applicant however disputes this, and argues that the DFFE did not request any further information before making a decision. The Applicant also showed that the public consultation process was done for more than 60 days, when the extensions that were granted are considered. Finally, the Applicant appealed the DFFE's decision, and submitted all documentary evidence. NERSA does not have the authority to review these documents but is satisfied that the plans submitted to the appropriate authority will enable the DFFE to make a decision. The applicant therefore showed plans and ability to comply with other legislation as in Section 10(2) e of the Act. There is no harm suffered by NERSA should NERSA issue a licence and the EIA appeal fails later, as there is provision in the legislation to revoke such licences. The Applicant will however have suffered irreparable harm in form of loss of business, should NERSA delay issuing the licence based.</p>
2.	<p>The objector indicated that the application does not comply with the IRP2019, and NERSA should not continue with the application.</p> <p>The objector also noted that there is no signed Power Purchase Agreement (PPA), and NERSA can therefore</p>	<p>The RMIPPPP is in compliance with the IRP2019 and this was fully ventilated during the Determination stage. The objector can be referred to the NERSA Decision and Reasons for Discussions documents on concurrence of this determination.</p>

	not make an informed decision because the risks and conditions of the PPA are not known as yet known.	The PPA to be signed by both parties was developed by the IPP Office, in consultation with Eskom, and was submitted to NERSA with the application. NERSA is in a position to take an informed decision.
3. CER	<p>CER believes that Karpowership SA Saldanha Bay (RF) (Pty) Ltd will not be able to meet environmental legislative requirements.</p> <p>The project does not present the best technology available since it expensive and dangerous which would fast track the effects of climate change.</p> <p>CER said it is inefficient and irresponsible for South Africa to sign 20-year contracts with Karpowership when there are alternatives that could produce the same capacity at a cheaper rate.</p> <p>The objector also argues that the application is not aligned with the Electricity Regulation Act.</p>	<p>Karpowership confirmed that it is committed to meeting environmental protection and its solution is fully compliant with South African environmental. Should it fail to meet the requirements, the DFFE will impose appropriate sanction in accordance with the law.</p> <p>It should also be noted that LNG is not a substitute for and does not disqualify renewable energy sources. The country's energy policy promotes energy mix. A shorter PPA term would have resulted in a higher tariff, since the capital cost and rate of return would be recouped in a shorter term. A longer term makes the project affordable to consumers.</p> <ul style="list-style-type: none"> <li>• our application complied with the ERA, including the provisions pertaining to public participation</li> <li>• the participation process was manifestly fair; particularly since substantial extensions of time were granted for objections to be received such that the applications were open for public comment for a period of 60 days</li> </ul> <p>The RMIPPP was designed by</p>

		the DMRE and the applicant was awarded Preferred Bidder status following the competitive bid process stipulated in the RFP. In the interests of accuracy, it should also be noted that all three of the Karpowership projects fall within the top six most cost-effective of the 11 projects awarded preferred bidder status
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41. NERSA's analysis regarding the above is that, part of the objection raised by the objector resides within the policy development realm and NERSA cannot venture into such space. With regard to section 10(2)(e), the distinction should be drawn between matters within the jurisdiction of NERSA and those that fall outside when considering section 10 of the ERA. An applicant is only expected to show its ability to comply with environmental, labour and health aspects. NERSA cannot decide on these aspects as their custodianship is outside of NERSA. NERSA has, in the past, considered applications with matters outside of its jurisdiction as incomplete. Therefore, the objection raised should be dismissed and the objector directed to the correct authority.
42. The rest of the analysis of comments and objections received during and after the public hearing of 19 August 2021 is on Table 5. Of the 16 presenters that presented during the public hearings, 13 objected to the Karpowership generation licence application and three were in support of the application. The summary of the objections and NERSA analysis is shown below.

**Table 5: Summary of Stakeholder objections and NERSA's analysis**

	<b>Stakeholder objections</b>	<b>NERSA's analysis</b>
1.	Most objectors raised their concerns regarding the criminal investigation by the Department of forestry, fisheries and environment (DFFE) that is underway, there is a legal challenge by DNG Energy underway, also a parliamentary investigation is underway, Shell is also having a court case and there are accusations of paying bribes to the Department of Mineral Resources and Energy (DMRE), which must not be ignored.	Any challenge to the procurement process should be directed to the DMRE or the IPP Office. This is outside NERSA's mandate.
2.	The projects will emit so much carbon over twenty years, carbon border taxes and carbon taxes, and noise pollution.	South Africa's energy policy promotes the use of different technologies. The gas technology is also cleaner than coal.

3.	Some stakeholders recommended that the IPP Office reassess the rules and regulations of these projects.	This is outside NERSA's mandate. It should have been directed to the DMRE and the IPP Office.
4.	Some stakeholders mentioned that the redaction of critical information on application forms sets unreasonable constraints to make meaningful and informed representations on various issues that go to the heart of the generation licence applications.	Financial information is confidential. The information about the tariff was however available, and was also disclosed when the Minister announced the preferred bidders.
5.	Some stakeholders said should NERSA issue a generation licence in these circumstances, the its decision will amount to procedurally unfair administrative action, and will be vulnerable to being set aside on review.	NERSA's mandates is derived from the Electricity Act, and NERSA's decision will be guided by the Act. NERSA has processed the applications in accordance with the Act, including public participation process.
6.	The objector expressed that NERSA licence approvals could be challenged and the DMRE should act on NERSA's ROD. Another objection was that NERSA is not achieving the ERA objective of the 'orderly development of the ESI'.	NERSA's mandate is derived from the Electricity Act, and NERSA's decision will be guided by the Act. NERSA believes that licensing this project will ensure that it fulfils the objects of the Act, and will result in orderly development of the ESI.
7.	<p>The following issues were raised: Since the Karpowership uses cold sea water to cool-off their generators and dumps hot water back to the sea, this will destroy fish and oyster farming.</p> <p>It will compromise the quality of water, which will drastically impact the agriculture/farming companies around the area.</p> <p>It will cause a negative impact on the economy, environment and tourism in the coastal area.</p>	Environmental concerns are outside NERSA's mandate. The Environmental Impact Studies submitted by the applicant will however address this concern.
8.	There was an issue that the application did not comply with the IRP2019 and other technologies have not been achieved. It was further mentioned that the cause is a poorly drafted RFP by the DMRE.	The IRP identified that short-term supply and demand side interventions will be needed. One of the interventions was to procure 2 000MW to 3 000MW. This procurement programme is aimed at achieving that. The application therefore complies with the IRP2019.
9.	Major shareholder is a Turkish company that owns 51% shares, which means South Africa will lose 51% profit.	Investment on the RMIPPP was open for both local and international investors.
10.	Due to complex engineering equipment on Karpowership vessels, which is assembled offsite, highly skilled personnel from abroad will be required.	Skills development is one of the economic requirements for the RMIPPP programme, local personnel will gain experience from the experts.
11.	Karpowership obtained exemptions from the Department of Trade and Industries to comply with the 40% local content requirement for	This is outside NERSA's mandate, the concerns should be raised with the DTI.

	<p>goods and services to be locally sourced, which would have potentially empowered local manufacturing industries.</p> <p>The applicant also obtained tax exemptions, which will benefit Karpowership more than other South African companies.</p>	
12.	<p>The procurement process was flawed and there are court challenges to this effect by DNG Energy. There is also no information on how the evaluation was conducted, especially with regard to the three powerships.</p>	<p>Any challenge to the procurement process should be directed to the DMRE or the IPP Office. This is outside NERSA's mandate.</p>
13.	<p>The EIA was denied and there are environmental investigations with regard to EIA. Many issues of environmental harm were highlighted during the public presentation process. Although EIA is appealed, there is no guarantee that it will succeed, so NERSA must wait for the appeal judgement.</p>	<p>Part of the objection raised resides within the policy development realm and NERSA cannot venture into such space. With regard to section 10(2)(e), the distinction should be drawn between matters within the jurisdiction of NERSA and those that fall outside when considering section 10 of the ERA. An applicant is only expected to show its ability to comply with environmental, labour and health aspects. NERSA cannot decide on these aspects as their custodianship is outside of NERSA. NERSA has, in the past, considered applications with matters outside of its jurisdiction as incomplete. Therefore, the objection raised should be dismissed and the objector directed to the correct authority.</p>
14.	<p>There are no Port Authority Permit approvals in accordance to section 56 and/or S79 Ministerial Direction (Minister of Transport) in terms of the National Ports Act.</p>	<p>The applicant has applied for the respective permits. NERSA is required to only consider the generation licence application. However, the Applicant must ensure that they obtain gas approvals from NERSA for the LNG product, which will be used as primary energy.</p>
15.	<p>There is no evidence of Eskom agreeing to the PPA.</p>	<p>The Minister has determined that Eskom will be the buyer and Eskom has not objected.</p>
16.	<p>There were concerns about the 20-year PPA for Karpowership projects.</p>	<p>The 20-year PPA is a standard term for all projects in the risk mitigation procurement projects. The term itself gives financiers confidence of backing such programmes since it provides certainty to their investments.</p>
17.	<p>Financial close of these projects has not been reached, and may never be reached.</p>	<p>Financial close will only be achieved after the generation licence is issued. The financial close deadline was extended to end of September 2021.</p>



18.	The tariffs are not the lowest nor were they significantly different from those of several of the other bidders at the date of bid. Tariffs are also indexed to the forex exchange rates, which do not bring certainty to the South African market.	Section 15 of the Electricity Regulation Act requires NERSA to approve tariffs that will enable the efficient operator to recover their cost and make a reasonable rate of return. Different technologies have different cost structures. South Africa's energy policy also promotes the use of different energy mix, and the cost will always be different. The different technologies complement each other, rather than competing with each other, e.g. solar PV and gas complement each other.
19.	Application does not fit in just transition towards a low carbon, inclusive, climate change resilient economy and society. Clean technologies are needed. The 20-year PPA will lock SA in carbon and greenhouse gas emissions.	South Africa's energy policy promotes the use of different technologies. The gas technology is also cleaner than coal. Twenty-year PPA will enable the applicant to recover the cost over a longer period, resulting in lower tariffs that are affordable to the consumers.
20.	Karpowerships are not in line with the objects of the Act, which seek to achieve efficient, effective, sustainable and orderly development and operation of the electricity infrastructure.	The Karpowerships applications should be considered in the context of energy mix. They will complement intermittent renewable energy technologies. Their ability to provide ancillary services will also assist the grid. The objection is therefore unfounded.
21.	The applicants will end up with excess capacity as in Ghana.	South Africa's energy requirements are different from Ghana's requirements. The claim of excess capacity has no basis considering that Eskom has aging coal fleet, and there is already load-shedding in the country.
22.	There is a low economic impact. There will be 106 job created during construction and 44 during operation.	The jobs created during construction are far much higher than what is being quoted. For Karpowership SA Saldanha Bay for example, jobs created are 4002 person's months during construction and 34 160 person's months during operation. Full economic information, including investment that will be brought in the country, is on project dashboard.
23.	Information about the tariff and associated evaluation was not included in the consultation documents, and it would be irrational for NERSA to expect the public to comment effectively on those aspects.	Financial information is confidential. The information about the tariff was however availed, and was also disclosed when the Minister announced the preferred bidders.

24.	The PPA should offer incentives for early Commercial Operation Date (COD) and penalties for late COD. Other stakeholders said the PPA was not shared with them and can therefore not make an informed comment on the PPA terms and conditions.	There are penalties for late COD. For every day that the achievement of the Commercial Operation Date (COD) is delayed by beyond the scheduled COD (unless such delay is caused by Force Majeure, a Late System Connection Event or a Compensation Event), the expiry date shall be brought forward by six days for each day of delay, provided that the expiry date may not be brought forward more than five years.
25.	There was a concern that there is a lack of transparency in respect of the business case, the community was not informed about Karpowership project, the advertisement was not published in local language (newspaper), as well as a concern about fishing industry as it will be greatly affected by this project	<p>Consultation was done adequately as required by section 11 of the Electricity Regulation Act. Each applicant advertised in local newspapers in two official languages. The applications were also published on NERSA website, as well as on the respective applicant's website. NERSA then advertised in four newspapers, namely the <i>Business Day</i>, the <i>City Press</i>, <i>The Star</i> and the <i>Sowetan</i>.</p> <p>Due to COVID-19 restrictions we were unable to hold public hearings in areas where these facilities will be built.</p>

43. There are also stakeholders that supported the applications, the reasons and analysis are tabulated as below.

**Table 6: Summary of Stakeholder support and NERSA's analysis**

<b>Stakeholder support</b>	<b>NERSA analysis</b>
The Integrated Coastal Energy Alliance (ICEA) is part of the Integrated Coastal Economy Alliance (ICEA) as collaboration between the West Coast Black Business Alliance Black Business Alliance (WCBBA), Eastern Cape Maritime Business Chamber (ECMBC), National Federated Chamber of Commerce and Industries (NAFCOC)-Nelson Mandela Bay and Nelson Mandela Local Business (SMME Leaders from all 60 wards) and Al Ansaar Saldanha. It supported the project because of the economic benefit it brings to the coastal areas. It highlighted that most of these objectors do not even live in the areas where these projects will be implemented.	NERSA agrees that sustainability is four dimensional, i.e. electricity security of supply, environmental, financial and social aspects. The important thing is to ensure a balance of these four dimensions.

## **APPLICABLE LAW**

44. The legal mandate for NERSA to issue a licence for the operation of a generation facility is derived from the following Acts:

44.1 The Electricity Regulation Act, 2006 (Act No. 4 of 2006)

44.2 The National Energy Regulator Act, 2004 (Act No. 40 of 2004).

## **ANALYSIS OF THE APPLICATION**

### **Permits from other Government Departments or Regulatory Authorities**

45. Karpowership SA Saldanha Bay (RF) (Pty) Ltd is in the process of engaging all key stakeholders to acquire all the necessary permits. Below is a list of all outstanding permits that the Applicant is in the process of obtaining:

45.1 The Environmental Authorisation application was submitted to the Department of Forestry, Fisheries and the Environment (DFFE). On 23 June 2021, the Department of Forestry, Fisheries and the Environment refused the application for Environmental Authorisation. On 13 July 2021, Karpowership appealed the refusal.

45.2 The gas licence applications have been submitted to NERSA.

45.3 The Applicant has commenced discussions with the Transnet National Ports Authority regarding:

- i) the granting of port access rights, including mooring of the powership and Floating Storage Regasification Unit (FSRU);
- ii) the construction, operation and maintenance rights, as well as the necessary land rights, in respect of the LNG pipeline infrastructure to allow for the supply of regasified natural gas from the FSRU to the powership; and
- iii) the construction, operation and maintenance rights as well as the necessary land rights to allow for the evacuation of power to the national grid via the 132kV overhead transmission line.

45.4 The Gas Supply Agreement is currently being finalised between Karpowership SA Fuel Services Company (Pty) Ltd and Karpowership SA Saldanha Bay (Pty) Ltd. A copy of the signed gas supply agreement will be submitted to NERSA as soon as it is available.

## Fuel Supply Agreement

46. Karpowership SA Fuel Services Company (Pty) Ltd is in a process of finalising the LNG agreement with an international oil and gas company, Royal Dutch Shell, for the purchase of LNG that will be delivered by Shell to the Port of Saldanha Bay where the powership is located.
47. The LNG carrier will transfer the LNG ship-to-ship to the on-site fuel storage on the FSRU over a period of one to two days, approximately every 25 to 40 days depending on the evacuation. The FSRU stores the LNG, and when required to meet the demand, converts the liquid form to a gaseous vapour before piping the gas to fuel the powership.
48. Karpowership SA Saldanha Bay (RF) (Pty) Ltd has entered into a gas supply agreement with Karpowership SA Fuel Services Company (Pty) Ltd for the supply and purchase of gas. The gas supply agreement is currently being finalised between the Applicant and Karpowership SA Fuel Services Company (Pty) Ltd.
49. Karpowership SA Fuel Services Company (Pty) Ltd shall deliver natural gas to the Applicant at the point where the FSRU connects to the natural gas pipeline, delivering gas to the powership in the port of Saldanha Bay.
50. The initial term of the Fuel Supply Agreement will be six years from the contract start date. The term may be extended by mutual agreement of both parties up to a maximum of 20 years or the expiry date of the PPA.

## Financial Information

51. The total investment cost for this project is [REDACTED]. The project is funded in terms of debt and equity as shown in Table 6.

**Table 6: Karpowership SA Saldanha Bay (RF) (Pty) Ltd.'s project funding**

Sources	R' m	%
Debt	[REDACTED]	[REDACTED]
Equity	[REDACTED]	[REDACTED]
<b>Total</b>	[REDACTED]	[REDACTED]

$$52. \text{Investment cost} = \frac{\text{Capital costs}}{\text{Maximum capacity}}$$

$$= \frac{[REDACTED]}{[REDACTED]}$$

= R10 231.3/kW

53. The comparison between the applicant's investment cost and the Energy Information Administration (EIA) for gas engines, is shown in Table 7 below:

**Table 7: Investment cost comparison**

<b>EIA Gas Engines Benchmark (February 2020) (R/kW)</b>	<b>Applicant (R/kW)</b>

54. The Applicant's investment cost is 9.7% lower than the EIA benchmark. This is favourable and is attributed to the higher capacity of the Applicant.
55. The lenders naturally prefer a higher equity to provide a buffer to their investment should a project fail, while the shareholders prefer a higher debt because the cost of debt is generally lower than the cost of equity.
56. The debt/equity ratio is therefore a result of a compromise between the project company and the lenders, based on the overall risk to be borne by the lenders, the project risk generally, the nature of the project, the industrial sector and technology involved, the value of the project and the nature of the financial markets.
57. The debt/equity ratios for power projects in developing countries tend to be in the order of 80:20 to 70:30. In South Africa, the average debt/equity ratio for renewable energy IPP procurement is 75:25. The Applicant's debt/equity ratio is therefore favourably comparable with the best that can be obtained in the energy markets.
58. The plant is expected to generate 37TWh during the PPA term of 20 years.

[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

## Tariffs Analysis

63. When considering applications for the approval of tariffs, the Energy Regulator is guided by the ERA. Section 15(1)(a) of the ERA states that:

*15.(1) A licence condition determined under section 14 relating to the setting or approval of prices, charges and tariffs and the regulations of revenues –*

*(a) must enable an efficient licensee to recover the full cost of its licensed activities, including a reasonable margin or return.*

64. The formula for the total payment in respect of the project during operating period is as follows:

$$TP_m = CP_m + EP_m + SU_{tm} + ASP_m + CT_m$$

*Where:*

*TP<sub>m</sub> = Total Payments for Energy (in Rand) for the Billing Period m.*

*CP<sub>m</sub> = Net Dependable Capacity Payment for the Billing Period m.*

*EP<sub>m</sub> = Commercial Energy Payment for the Billing period m.*

*SU<sub>tm</sub> = Total Start Up Payment for Billing Period m, in excess of one (1) start up per day.*

*ASP<sub>m</sub> = Total Ancillary Service Payment for the Billing Period m.*

*CT<sub>m</sub> = Carbon Tax payable by the Seller to the Responsibility Authority for the Billing Period m.*

*m = the current Billing Period in a contract year.*

65. The formulas for the calculation of each component are further illustrated in Schedule 9 of the PPA.
66. The Applicant's charge rates for calculating the tariff using the above formulas are shown in Table 8 below.

**Table 8: Karpowership SA Saldanha Bay (RF)'s charge rates<sup>1</sup>**

Charge rates	Agreed value	Unit of measure
CCR <sub>b</sub>	██████████	Rand/MWh
NCCR <sub>b</sub>	██████████	Rand/MWh
FOMR <sub>b</sub>	██████████	Rand/MWh
FCR	██████████	Rand/MJ
RCR <sub>rb</sub>	██████████	Rand/MWh
VCCR <sub>gb</sub>	██████████	Rand/MWh
DAIR <sub>b</sub>	██████████	Rand/MW
DARR <sub>b</sub>	██████████	Rand/MW
CAIR <sub>b</sub>	██████████	Rand/MW
CARR <sub>b</sub>	██████████	Rand/MW
TC	██████████	R/MJ
TR	██████████	R/MJ

<sup>1</sup> CCR<sub>b</sub> Capital Cost Recovery Charge Rate  
FOMR<sub>b</sub> Fixed O&M Recovery Charge Rate  
FCR Fuel Charge Rate  
VCCR<sub>gb</sub> Variable Cost Recovery Charge Rate  
RCR<sub>rb</sub> Renewable Recovery Charge Rate  
DAIR<sub>b</sub> Instantaneous Reserve Response Rate  
DARR<sub>b</sub> Regulating Reserve Rate  
CAIR<sub>b</sub> Instantaneous Response Rate  
CARR<sub>b</sub> Regulating Response Rate  
TC Transportation Cost  
TR Transportation and Regasification Cost

67. All charge rates may have a subscript 'b' denoting the value as at the base date (1 April 2020), as all rates would be fully indexed to the Consumer Price Index (CPI) on 1 April of each year.

- [REDACTED]
69.  $FOMR_b$  is the tariff that compensates fixed costs of the project. This is a pass-through cost that does not include any profit margin during the PPA term. The same amount of payment is received in any generation case.
70.  $VCCR_{gb}$  is the tariff that compensates variable costs of the project. This is also a pass-through cost that does not include any profit margin during the PPA term. The amount paid differs per generation case.
71. FCR is the tariff that compensates the LNG molecule only. This is strictly related to LNG molecule, as transportation and FSRU costs are covered under  $FOMR_b$ .
72. The gas price shall be in USD/MMbtu and calculated as: The Fuel Price + Storage and Regasification Charge, where:

$$\text{Fuel Price per MMBtu} = (\text{JKM} - 0.2) \times (1 + \text{Regas percent}).$$

- [REDACTED]
74. Ancillary charges consist of four elements including instantaneous reserve fuel and operation and maintenance (O&M) charges and regulating reserve fuel and O&M charges. The ancillary service charge rates become:

- 74.1  $CA_{IRb}$  – fuel charge rate for instantaneous reserve
- 74.2  $DA_{IRb}$  – variable O&M charge rate for instantaneous reserve
- 74.3  $CA_{RRb}$  – fuel charge rate for regulating reserve
- 74.4  $DA_{RRb}$  - variable O&M charge rate for regulating reserve.

75. Using the Applicant's submitted charge rates, the tariff for April 2022 is R1.483/kWh and each charge rate will escalate with the CPI.



76. Table 9 below shows the Applicant's tariff for the first five years.

**Table 9: Karpowership SA Saldanha Bay (RF) (Pty) Ltd's calculated tariff**

<b>Operation FY (from 1 April – 31 March of the following year)</b>	<b>1 (2022 FY)</b>	<b>2 (2023 FY)</b>	<b>3 (2024 FY)</b>	<b>4 (2025 FY)</b>	<b>5 (2026 FY)</b>
Total electricity production (MWh)	██████	██████	██████	██████	██████
Total Combined Revenues (R'm)	██████	██████	██████	██████	██████
<b>Effective revenues per energy output (ZAR/kWh)</b>	██████	██████	██████	██████	██████

77. The 2022 average tariff for open cycle gas turbines (OCGTs) is R4.8/kWh. The OCGT tariff is 69% higher than the Applicant's tariff because the diesel is more expensive than the LNG.

78. The 2022 average tariff for the Short-Term Power Purchase Programme (STPPP) is R1.3/kWh. The Applicant's tariff is 14% higher than the STPPP tariff because the project is dispatchable.

## **ECONOMIC INFORMATION**

79. Table 10 shows the socio-economic benefits that the Applicant indicated:

**Table 10: Karpowership SA Saldanha Bay (RF) (Pty) Ltd job creation**

<b>Job creation during licensing stage (person-months<sup>2</sup>)</b>	
During construction	4 002
During operation	34 160

80. The number of jobs created during operation is very high because of the complexity of the project. Some employees will be working on the gas side of the facility, while some will be on the electricity side of the Karpowership.

81. Citizen shareholding in the project company is 49% against the Request for Proposal (RfP) target of 49%.

82. Black people shareholding in the project company is 49% against an RfP target of 30%.

<sup>2</sup> 1 job = 12 person's month, which means 12 people employed for one month, or 1 person employed for 12 months

- 83. Shareholding by black people in the construction contractor is set at 78.51% against an RfP target of 25%.
- 84. Shareholding by black people in the operations contractor is 49% against an RfP target of 25%.

## **POWER PURCHASE AGREEMENT**

- 85. The Request for Proposal (RfP) documents, including the PPA, were noted by the Electricity Subcommittee on 9 March 2021 and then circulated to the Regulator Members. The following are the salient points in the PPA analysis:

- 85.1 The term of the PPA is 20 years. This period is within the lifespan of the project, which is 25 years. The PPA term is also long enough to enable the bidders to recover the full cost of the projects at affordable prices. The shorter the PPA term, the higher the tariff.
- 85.2 There is a fair and balanced allocation of risks between affected parties.
- 85.3 The adopted price competitive mechanism was found to be compatible with fair pricing to electricity consumers.
- 85.4 All the payment obligation risks or liabilities of the buyer were found to be adequately catered for through a government support package in the form of an Implementation Agreement (IA).
- 85.5 Penalties for the delays in connecting the plant are stated in the PPA so as to encourage the selected bidders to honour the committed scheduled operation dates. For every day that the achievement of the commercial operation date (COD) is delayed by beyond the scheduled COD (unless such delay is caused by Force Majeure, a Late System Connection Event or a Compensation Event), the expiry date shall be brought forward by six days for each day of delay, provided that the expiry date may not be brought forward more than five years.
- 85.6 In the PPA, there is a clause that states: 'The Buyer shall reimburse to the Seller the Use of System Charges, **if any**, which the Seller is obliged to pay and has paid in terms of the Distribution Agreement or the Transmission Agreement, as the case may be, in each Billing Period.' NERSA suggests that this be explained further to make it clear that it will only be applicable

after the unbundling of Eskom and the establishment of the Transmission Operator, or when a third-party network is used.

- 85.7 The PPA accommodates the anticipated unbundling of Eskom and allows the Buyer to assign all or some of its rights and obligations under the PPA to a third party as part of the dissolution, restructuring, amalgamation or reorganisation of the Buyer or its businesses or of the electricity sector in General.
86. The Energy Regulator noted the risk allocation and cost recovery provisions in the project agreements for new generation capacity under the RMIPPPP.

## **TECHNICAL INFORMATION**

87. The Karpowership SA Saldanha Bay generation facility is situated at the port of Saldanha in the Western Cape Province.
88. The contracted capacity for the project is 320MW and its installed capacity is 414MW. The configuration of the generation facility is planned to be 21x18.32MW gas engines and 2x15MW recovery steam turbines. The excess capacity is to ensure a high availability, high reliability and security of supply via the built-in redundancy. It will also improve the generating station's capacity for ancillary services such as voltage and frequency regulation even when the station is operating at its maximum contracted capacity.
89. The LNG will be delivered by the LNG carrier and will be stored in the FSRU. When the natural gas is required for power generation by the powership, the LNG will be warmed and turned from a liquid state to a gaseous state and will then be pumped from the FSRU to the powership via a gas pipeline.
90. The power that is generated will then be converted by the on-board high voltage substation and the electricity evacuated via a 132kV transmission line, which feeds into the national grid.
91. The plant's expected life span and estimate of conversion efficiency are 25 years and 43.6% respectively.
92. Table 11 below shows the technical information and specification of the Karpowership SA Saldanha Bay (RF) (Pty) Ltd's generation facility.

**Table 11: Technical information and specification**

Karpowership SA Saldanha (RF) (Pty) Ltd	Data
Facility name	Karpowership Saldanha Bay
Power Plant Technology	Gas Engine
Installed capacity (MW)	414
Contracted Capacity (MW)	320
Minimum stable load (MW)	75
Design auxiliary consumption (MW)	1.27MW and 7.5MW, subject to dispatch.
Number of turbines	21X18.32MW Gas Engine and 2X 15MW STG
Fuel Type	Natural Gas
Heat rate of the facility (KJ/kWh)	9160
Number of transformers	4 x 160MVA; 15/132kV
Grid connection point voltage level	132kV
Maximum grid export capacity (MW)	320
Average plant availability	97%

93. The generation facility will connect to a new 132KV switching station at Hoogland substation. The switching station was constructed by Karpowership but is owned and operated by Eskom.



95. The O&M of the power station will be carried out by a contractor under an O&M Agreement. The O&M Agreement has an annual fixed component and a variable per kWh component.

## CONCLUSION AND RECOMENDATION

96. From a conspectus of the facts and evidence, Karpowership SA Saldanha Bay (RF) (Pty) Ltd's application for a generation licence is in compliance with the requirements of the Electricity Regulation Act, 2006 (Act No. 4 of 2006) and the National Energy Regulator Act, 2004 (Act No. 40 of 2004). It is thus appropriate to make the decision as set out above.