

1 December 2021

Ms Danjelle Midgley
Centre for Environmental Rights
2nd Floor, Springtime Studios
1 Scott Road, Observatory
Cape Town, 7925
Tel: 021 447 1647/ 083 275 2010

By email: dmigley@cer.org.za

Dear Madam

RESPONSE TO REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY IN TERMS OF SECTION 18(1) OF THE PROMOTION OF ACCESS TO INFORMATION ACT – CENTRE FOR ENVIRONMENTAL RIGHTS

1. We refer to the Centre for Environmental Rights' request for access to the records of the Development Bank of Southern Africa Limited ("**DBSA**"), in terms of section 18(1) of the Promotion of Access to Information Act, 2 of 2000 ("**PAIA**"), received on 20 September 2021 ("**CER Request**").
2. Our response to the CER Request is set out below.

CER Request

A. The following records are requested in relation to the DBSA's finance and investment policies, frameworks, and due diligence criteria:

1. **Copies of all finance and investment policies, frameworks and due diligence criteria, applicable to any infrastructure projects or other undertakings that may be funded by the DBSA, including the most current:**
 - 1.1 **DBSA Climate Change Policy Framework**
 - 1.2 **DBSA Environmental Sustainability Strategy**
 - 1.3 **DBSA Environmental Appraisal Framework**



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1.4 DBSA Social and institutional Guidelines

Which policies and framework are set out in the DBSA's Environment and Social Safeguards Standards (ESSS) dated March 2020.

3. DBSA Response

3.1 The DBSA's Environmental Appraisal Framework is available on our website, at www.dbsa.org.

3.2 Save for what is stated above, the request for the aforementioned records is denied in terms of sections 42(3) of PAIA as the records contain:

3.2.1 Details of the DBSA's trade secrets, processes, confidential information, expertise and institutional knowledge, attained over time through its unique positioning as a development finance institution (as contemplated under section 42(3)(a) of PAIA);

3.2.2 DBSA's financial and/or commercial information, which if disclosed under the CER Request, would cause harm to the commercial and financial interests of the DBSA (as contemplated under section 42(3)(b) of PAIA); and

3.2.3 information, which if disclosed under the CER Request, would place the DBSA at a disadvantage in its contractual and other negotiations undertaken in fulfilment of its legislative mandate. It would further prejudice the DBSA in its ability to compete effectively with its competitors (as contemplated in section 42(3)(c) of PAIA).

CER Request

B. The following records are requested in relation to the DBSA's funding or support for Karadeniz Energy Group, Karpowership SA, Powergroup SA,



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and/or power-generating barges/ships proposed for the ports of Richards Bay, Nqgura, and Saldanha:

1. **Details of the funding considered by the DBSA's investment committee, and/or which was applied for by Karadeniz Energy Group, Karpowership, and/or Powergroup SA, as referred to by Enoch Godongwana, chairperson of the DBSA, in an interview dated 24 May 2021 and reported in Engineering News on 25 May 2021, including:**
 - 1.1. **The amount of funding considered by the DBSA's investment committee;**
 - 1.2. **The proposed nature and structure of such financing or investment;**
 - 1.3. **Any conditions applicable to the DBSA's financial support for the companies or projects;**
 - 1.4. **The current stage of the application / project within the DBSA's Project Cycle (as set out on page 17 of the ESSS dated March 2020); and**
 - 1.5. **Whether the DBSA has committed to funding the companies or projects and, if so, the nature and amount of funding committed and any conditions applicable to such funding arrangement.**

4. *DBSA Response*

- 4.1 The request for these records is denied in terms of sections 42(3), 36(1) and 37(1) of PAIA as the records contain:
 - 4.1.1 DBSA's financial and commercial information, which if disclosed under the CER Request, would cause harm to the commercial and financial interests of the DBSA (as contemplated under section 42(3)(b) of PAIA);



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- 4.1.2 information, which if disclosed under the CER Request, would place the DBSA at a disadvantage in its contractual and other negotiations undertaken in fulfilment of its legislative mandate. It would further prejudice the DBSA in its ability to compete effectively with its competitors (as contemplated in section 42(3)(c) of PAIA);
- 4.1.3 as the record relates to third parties, the DBSA is obliged to refuse the request as the disclosure of the record would amount to the disclosure of the third parties' financial and/or commercial information, which would likely cause harm to the commercial or financial interests of the third parties, as contemplated in section 36(1)(b) of PAIA. In addition, the record was supplied in confidence by the third parties to DBSA and its disclosure will place the third parties at a disadvantage in contractual or other negotiations and would also prejudice them in commercial competition (as contemplated in section 36(1)(c) of PAIA); and
- 4.1.4 information provided to the DBSA in confidence. The DBSA is obliged to refuse the request in terms of section 37(1)(a) of PAIA as the records, provided by the third parties, is subject to comprehensive confidentiality undertakings. Any disclosure would constitute a breach of these undertakings and the duty of confidence to the counterparts.

CER Request

- 2. Details of the application for funding considered by the investment committee, or any other structure of the DBSA, including:**
- 2.1. Full names and registration numbers of the applicant(s) for funding;**
- 2.2. Full names of all directors and shareholders of the applicant(s), as provided by the applicants to the DBSA;**
- 2.3. Copies of documents supplied to the DBSA in the application for funding including the environmental and social scoping report,**



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comprehensive ESIA, detailed ESMP, Stakeholder Engagement Plan, and grievance and redress mechanisms, which are required to be submitted to the DBSA in terms of the ESSS.

- 2.4. The full list of criteria with which the applicants are required to comply in order to access DBSA funding, in including those considered in the DBSA's due diligence process(es) and applicable under the DBSA's ESSS;**
- 2.5. The record of scores and/or extent of compliance of the applicants against such criteria.**

5. *DBSA Response*

- 5.1 The request for these records is denied in terms of sections 42(3), 44(1) 36(1) and 37(1) of PAIA as the records contain:
 - 5.1.1 DBSA's financial and commercial information, which if disclosed under the CER Request, would cause harm to the commercial and financial interests of the DBSA (as contemplated under section 42(3)(b) of PAIA);
 - 5.1.2 information, which if disclosed under the CER Request, would place the DBSA at a disadvantage in its contractual and other negotiations undertaken in fulfilment of its legislative mandate. It would further prejudice the DBSA in its ability to compete effectively with its competitors (as contemplated in section 42(3)(c) of PAIA);
 - 5.1.3 accounts of consultations, discussions and deliberations that have occurred and records of reports and recommendations relied on by the DBSA. These originated as a consequence of DBSA exercising a power and performing a duty conferred and imposed upon it by law (as contemplated under sections 44(1)(a)(i) and (ii) of PAIA);



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5.1.4 as the record relates to third parties, the DBSA is obliged to refuse the request as the disclosure of the record would amount to the disclosure of the third parties' financial and/or commercial information, which would likely cause harm to the commercial or financial interests of the third parties as contemplated in section 36(1)(b) of PAIA. In addition, the record was supplied in confidence by the third parties to DBSA and its disclosure will place the third parties at a disadvantage in contractual or other negotiations and would also prejudice them in commercial competition (as contemplated in section 36(1)(c) of PAIA); and

5.1.5 information provided to the DBSA in confidence. The DBSA is obliged to refuse the request in terms of section 37(1)(a) of PAIA as the records, provided by the third parties, is subject to comprehensive confidentiality undertakings. Any disclosure would constitute a breach of these undertakings and the duty of confidence to the counterparts.

CER Request

3. Whether social and environmental impact assessments were (1) conducted by Karadeniz Energy Group, Karpowership SA, or Powergroup SA and (2) considered by the DBSA, specifically in relation to:

- 3.1 Climate-related impacts;**
- 3.2 Impacts on water and considerations related to water-scarcity**
- 3.3 Impacts on biodiversity;**
- 3.4 Impacts on heritage including world heritage sites;**
- 3.5 Impacts on land rights and the rights of indigenous peoples;**
- 3.6 Impacts on protected areas and wetlands; and**



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3.7 Impacts on animal species including threatened and endangered species.

6. DBSA Response

6.1 The request for these records is denied in terms of sections 42(3) and 37(1) of PAIA as the records contain:

6.1.1 information, which if disclosed under the CER Request, would place the DBSA at a disadvantage in its contractual and other negotiations undertaken in fulfilment of its legislative mandate. It would further prejudice the DBSA in its ability to compete effectively with its competitors (as contemplated in section 42(3)(c) of PAIA); and

6.1.2 information provided to the DBSA in confidence. The DBSA is obliged to refuse the request in terms of section 37(1)(a) of PAIA as the records, provided by the third parties, is subject to comprehensive confidentiality undertakings. Any disclosure would constitute a breach of these undertakings and the duty of confidence to the counterparts.

CER Request

4. The content of the above-mentioned social and environmental impact assessments, including full copies of all social and environmental impact assessments and water resource impact assessment reports provided by Karadeniz Energy Group, Karpowership SA, and/or Powergroup SA to the DBSA.

7. DBSA Response

7.1 The request for these records is denied in terms of sections 42(3) and 37(1) of PAIA as the records contain:



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- 7.1.1 information, which if disclosed under the CER Request, would place the DBSA at a disadvantage in its contractual and other negotiations undertaken in fulfilment of its legislative mandate. It would further prejudice the DBSA in its ability to compete effectively with its competitors (as contemplated in section 42(3)(c) of PAIA); and
- 7.1.2 information provided to the DBSA in confidence. The DBSA is obliged to refuse the request in terms of section 37(1)(a) of PAIA as the records, provided by the third parties, is subject to comprehensive confidentiality undertakings. Any disclosure would constitute a breach of these undertakings and the duty of confidence to the counterparts.

CER Request

- 5. Whether the DBSA has identified, in the application of the Environmental and Social Safeguards Standards in the investment value chain (as set out on page 18 of ESSS March 2020):**
- 5.1. Key environmental and social issues for project design;**
- 5.2. High level environmental and social risks and impacts in line with the DBSA Environmental and Social Safeguard Standards;**
- 5.4. The volume of greenhouse gas emissions;**
- 5.5. Project environmental and social risks;**
- 5.6. Project affected communities and the level of community organisation and representation; the impact of the project on affected communities and beneficiaries; and the readiness of the community to receive the project.**

8. DBSA Response



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- 8.1 The request for these records is denied in terms of sections 44(1), 42(3) and 37(1) of PAIA as the records contain:
- 8.1.1 accounts of consultations, discussions and deliberations that have occurred and records of reports and recommendations relied on by the DBSA. These originated as a consequence of DBSA exercising a power and performing a duty conferred and imposed upon it by law (as contemplated under sections 44(1)(a)(i) and (ii) of PAIA);
 - 8.1.2 information, which if disclosed under the CER Request, would place the DBSA at a disadvantage in its contractual and other negotiations undertaken in fulfilment of its legislative mandate. It would further prejudice the DBSA in its ability to compete effectively with its competitors (as contemplated in section 42(3)(c) of PAIA); and
 - 8.1.3 information provided to the DBSA in confidence. The DBSA is obliged to refuse the request in terms of section 37(1)(a) of PAIA as the records, provided by the third parties, is subject to comprehensive confidentiality undertakings. Any disclosure would constitute a breach of these undertakings and the duty of confidence to the counterparts.

CER Request

6. **Where any of the abovementioned elements have been identified in the application of the ESSS, please specify the content identified including (1) the issues identified and extent of greenhouse gas emissions, (2) high level risks identified, and (3) any proposed risk mitigation measures and the risk impacts after mitigation.**



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9. *DBSA Response*

9.1 The request for these records is denied in terms of sections 44(1), 42(3) and 37(1) of PAIA as the records contain:

9.1.1 accounts of consultations, discussions and deliberations that have occurred and records of reports and recommendations relied on by the DBSA. These originated as a consequence of DBSA exercising a power and performing a duty conferred and imposed upon it by law (as contemplated under sections 44(1)(a)(i) and (ii) of PAIA);

9.1.2 Information, which if disclosed under the CER Request, would place the DBSA at a disadvantage in its contractual and other negotiations undertaken in fulfilment of its legislative mandate. It would further prejudice the DBSA in its ability to compete effectively with its competitors (as contemplated in section 42(3)(c) of PAIA); and

9.1.3 information provided to the DBSA in confidence. The DBSA is obliged to refuse the request in terms of section 37(1)(a) of PAIA as the records, provided by the third parties, is subject to comprehensive confidentiality undertakings. Any disclosure would constitute a breach of these undertakings and the duty of confidence to the counterparts.

CER Request

7. Whether the project is classified High/Substantial Risk, Moderate Risk, or Low Risk and the reasons for that determination in line with the factors set out in Standard 1, section 1.3.1 of the ESSS.

10. *DBSA Response*

10.1. The request for these records is denied in terms of sections 44(1), 42(3) and 37(1) of PAIA as the records contain:



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- 10.1.1 accounts of consultations, discussions and deliberations that have occurred and records of reports and recommendations relied on by the DBSA. These originated as a consequence of DBSA exercising a power and performing a duty conferred and imposed upon it by law (as contemplated under sections 44(1)(a)(i) and (ii) of PAIA);
- 10.1.2 information, which if disclosed under the CER Request, would place the DBSA at a disadvantage in its contractual and other negotiations undertaken in fulfilment of its legislative mandate. It would further prejudice the DBSA in its ability to compete effectively with its competitors (as contemplated in section 42(3)(c) of PAIA); and
- 10.1.3 information provided to the DBSA in confidence. The DBSA is obliged to refuse the request in terms of section 37(1)(a) of PAIA as the records, provided by the third parties, is subject to comprehensive confidentiality undertakings. Any disclosure would constitute a breach of these undertakings and the duty of confidence to the counterparts.

CER Request

- 8. If the project is classified as High/Substantial Risk or is determined to be of high magnitude/impact, then provide copies of the records, advice, or findings of the independent advisory panel of expertise agreed to by the DBSA, as set out in the Procedures and guidelines for Category 1 (High and Substantial Risk) projects.**

11. DBSA Response

- 11.1 The request for these records is denied in terms of sections 44(1), 42(3) and 37(1) of PAIA as the records contain:
- 11.1.1 accounts of consultations, discussions and deliberations that have occurred and records of reports and recommendations relied on by the DBSA. These



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originated as a consequence of DBSA exercising a power and performing a duty conferred and imposed upon it by law (as contemplated under sections 44(1)(a)(i) and (ii) of PAIA);

11.1.2 information, which if disclosed under the CER Request, would place the DBSA at a disadvantage in its contractual and other negotiations undertaken in fulfilment of its legislative mandate. It would further prejudice the DBSA in its ability to compete effectively with its competitors (as contemplated in section 42(3)(c) of PAIA); and

11.1.3 information provided to the DBSA in confidence. The DBSA is obliged to refuse the request in terms of section 37(1)(a) of PAIA as the records, provided by the third parties, is subject to comprehensive confidentiality undertakings. Any disclosure would constitute a breach of these undertakings and the duty of confidence to the counterparts.

CER Request

9. Copies of any written agreements between Karadeniz Energy Group, Karpowership SA, and/or Powergroup SA and the DBSA.

12. DBSA Response

12.1 The request for these records is denied. The DBSA is obliged to refuse the request in terms of section 37(1)(a) of PAIA as the agreements entered into with the third parties are subject to a comprehensive confidentiality undertaking. Any disclosure would constitute a breach of this undertaking and the duty of confidence to the counterpart.



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*CER Request***C. The following records are requested in relation to the DBSA's support and funding for Ghana Powership project:**

- 1. Full copies of all social and environmental impact assessments and water resource impact assessment reports considered by the DBSA in relation to the Ghana powership project.**

13. *DBSA Response*

13.1 The request for these records is denied in terms of sections 42(3) and 37(1) of PAIA as the records contain:

13.1.1 information, which if disclosed under the CER Request, would place the DBSA at a disadvantage in its contractual and other negotiations undertaken in fulfilment of its legislative mandate. It would further prejudice the DBSA in its ability to compete effectively with its competitors (as contemplated in section 42(3)(c) of PAIA); and

13.1.2 information provided to the DBSA in confidence. The DBSA is obliged to refuse the request in terms of section 37(1)(a) of PAIA as the records, provided by the third parties, is subject to comprehensive confidentiality undertakings. Any disclosure would constitute a breach of these undertakings and the duty of confidence to the counterparts.

*CER Request***2. The full record of decision-making relating to the Ghana powership project, including:**

- 2.1. Copies of all documents supplied to the DBSA in the application for funding;**



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- 2.2. The list of criteria with which the applicant(s) were required to comply in order to access DBSA funding, including those considered in the DBSA's due diligence process(es) and applicable under the DBSA's Environmental and Social Safeguard Standards;**
- 2.3. The record of scores and/or extent of compliance of the applicants against such criteria;**
- 2.4. Any conditions precedent with which the applicants had to comply in order to obtain funding from the DBSA.**

14. *DBSA Response*

- 14.1 The request for these records is denied in terms of sections 42(3), 44(1) 36(1) and 37(1) of PAIA as the records contain:
 - 14.1.2 DBSA's financial and commercial information, which if disclosed under the CER Request, would cause harm to the commercial and financial interests of the DBSA (as contemplated under section 42(3)(b) of PAIA);
 - 14.1.3 information, which if disclosed under the CER Request, would place the DBSA at a disadvantage in its contractual and other negotiations undertaken in fulfilment of its legislative mandate. It would further prejudice the DBSA in its ability to compete effectively with its competitors (as contemplated in section 42(3)(c) of PAIA);
 - 14.1.4 accounts of consultations, discussions and deliberations that have occurred and records of reports and recommendations relied on by the DBSA. These originated as a consequence of DBSA exercising a power and performing a duty conferred and imposed upon it by law (as contemplated under sections 44(1)(a)(i) and (ii) of PAIA);
 - 14.1.5 as the record relates to third parties, the DBSA is obliged to refuse the request as the disclosure of the record would amount to the disclosure of the



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third parties' financial and/or commercial information, which would likely cause harm to the commercial or financial interests of the third parties as contemplated in section 36(1)(b) of PAIA. In addition, the record was supplied in confidence by the third parties to DBSA and its disclosure will place the third parties at a disadvantage in contractual or other negotiations and would also prejudice them in commercial competition (as contemplated in section 36(1)(c) of PAIA); and

14.1.6 information provided to the DBSA in confidence. The DBSA is obliged to refuse the request in terms of section 37(1)(a) of PAIA as the records, provided by the third parties, is subject to comprehensive confidentiality undertakings. Any disclosure would constitute a breach of these undertakings and the duty of confidence to the counterparts

CER Request

3. Copies of any written agreements between the DBSA and the owners of the Ghana powerships.

15. *DBSA Response*

15.1 The request for access to these records is denied. The DBSA is obliged to refuse the request in terms of section 37(1)(a) of PAIA as the agreements entered into with the third parties is subject to comprehensive confidentiality undertakings. Any disclosure would constitute a breach of these undertakings and the duty of confidence to the counterparts.

CER Request

D. The following records are requested concerning DBSA funding related to the development and operation of the Musina-Makhado Special Economic Zone (MMSEZ), as suggested in a meeting in a committee meeting of the NCOP Trade



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and Industry committee held on 16 March 2021, and in consideration of the presentation by Mr Mohale Rakgate of the DBSA to the Limpopo Investment Conference held on 1 September 2021.

1. **Details of all applications for funding of infrastructure and/or other projects and undertakings intending to support the development of, or operate within, the Musina-Makhado SEZ, including:**
 - 1.1. **The name(s) of the entities and/or persons which have applied for funding from the DBSA;**
 - 1.2. **The purpose(s) under which the applicants have applied for such funding;**
 - 1.3. **The total amount (in South African Rand) and nature of funding applied for (whether project finance, corporate credits, or any other form of financing).**

16. *DBSA Response*

- 16.1 The DBSA has not received an application for funding in relation to the Musina-Makhado Special Economic Zone (MMSEZ). Accordingly, these records do not exist.

CER Request

2. **Details of all infrastructure and/or other projects and undertakings supporting the development of, or operating within, the Musina-Makhado SEZ which the DBSA has committed to fund and/or has funded), which must detail and include:**
 - 2.1. **Any memorandum of understanding and/or loan, finance, or investment agreement(s);**
 - 2.2. **The terms and conditions applicable to the funding; and**



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2.3. How much has been committed to and/or invested in the project.

17. *DBSA Response*

17.1 Please see our response to question 1 above. The DBSA has not committed to fund any projects concerning the MMSEZ.

CER Request

3. The due diligence framework and/or list of criteria considered in any due diligence process(es) that may apply in relation to the extension of project finance, corporate credits, or any other form of financing to any project or undertaking supporting the development of, or operating within, the Musina-Makhado SEZ.

18. *DBSA Response*

18.1 Please see our response to questions 1 and 2 above. These records do not exist.

CER Request

4. The record of decision making including the scores and/or performance of each company or undertaking to which the DBSA has agreed to grant funding measured against such aforementioned due diligence framework and policy criteria

19. *DBSA Response*

19.1 Please see our response to questions 1 and 2 above. These records do not exist.

CER Request

E. The following records are requested in relation to the DBSA's financing of the Mozambique LNG Project, as referred to in a post on the DBSA website dated 20 July 2020:



Prof M Swilling (Interim Board Chairman),
PK Dlamini* (Chief Executive), M Janse van Rensburg,
Adv. M Kganedi, G Magomola, MP Matji, B Mosako*,
B Mudavanhu, MT Ngqaleni,
B Nqwababa, P Nqeto, A Sing

*Executive
Bathobile Sowazi (Company Secretary)

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1. Whether environmental and social impact assessments were undertaken for this project.

20. DBSA Response

20.1 The request for these records is denied in terms of sections 42(3) and 37(1) of PAIA as the records contain:

20.1.1 information, which if disclosed under the CER Request, would place the DBSA at a disadvantage in its contractual and other negotiations undertaken in fulfilment of its legislative mandate. It would further prejudice the DBSA in its ability to compete effectively with its competitors (as contemplated in section 42(3)(c) of PAIA); and

20.1.2 information provided to the DBSA in confidence. The DBSA is obliged to refuse the request in terms of section 37(1)(a) of PAIA as the records, provided by the third parties, is subject to comprehensive confidentiality undertakings. Any disclosure would constitute a breach of these undertakings and the duty of confidence to the counterparts.

CER Request

2. Whether the DBSA considered the content of the environmental and social impact assessments in its investment decision and due diligence processes.

21. DBSA Response

21.1 The request for these records is denied in terms of sections 42(3) and 37(1) of PAIA as the records contain:

21.1.1 information, which if disclosed under the CER Request, would place the DBSA at a disadvantage in its contractual and other negotiations undertaken in fulfilment of its legislative mandate. It would further prejudice the DBSA in its ability to compete effectively with its competitors (as contemplated in section 42(3)(c) of PAIA); and



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21.1.2 information provided to the DBSA in confidence. The DBSA is obliged to refuse the request in terms of section 37(1)(a) of PAIA as the records, provided by the third parties, is subject to comprehensive confidentiality undertakings. Any disclosure would constitute a breach of these undertakings and the duty of confidence to the counterparts

CER Request

- 3. The record of decision making including the scores and/or extent of compliance of the Mozambique LNG project measured against such aforementioned due diligence framework and applicable elements of the DBSA's Environmental and Social Safeguard Standards.**

22. *DBSA Response*

22.1 The request for these records is denied in terms of sections 42(3), 44(1) 36(1) and 37(1) of PAIA as the records contain:

22.1.1 DBSA's financial and commercial information, which if disclosed under the CER Request, would cause harm to the commercial and financial interests of the DBSA (as contemplated under section 42(3)(b) of PAIA);

22.1.2 information, which if disclosed under the CER Request, would place the DBSA at a disadvantage in its contractual and other negotiations undertaken in fulfilment of its legislative mandate. It would further prejudice the DBSA in its ability to compete effectively with its competitors (as contemplated in section 42(3)(c) of PAIA);

22.1.3 accounts of consultations, discussions and deliberations that have occurred and records of reports and recommendations relied on by the DBSA. These originated as a consequence of DBSA exercising a power and performing a duty conferred and imposed upon it by law (as contemplated under sections 44(1)(a)(i) and (ii) of PAIA);



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22.1.4 as the record relates to third parties, the DBSA is obliged to refuse the request as the disclosure of the record would amount to the disclosure of the third parties' financial and/or commercial information, which would likely cause harm to the commercial or financial interests of the third parties as contemplated in section 36(1)(b) of PAIA. In addition, the record was supplied in confidence by the third parties to DBSA and its disclosure will place the third parties at a disadvantage in contractual or other negotiations and would also prejudice them in commercial competition (as contemplated in section 36(1)(c) of PAIA); and

22.1.5 information provided to the DBSA in confidence. The DBSA is obliged to refuse the request in terms of section 37(1)(a) of PAIA as the records, provided by the third parties, is subject to comprehensive confidentiality undertakings. Any disclosure would constitute a breach of these undertakings and the duty of confidence to the counterparts.

CER Request

4. Copies of all environmental and social impact assessments provided and considered by the DBSA.

23. *DBSA Response*

23.1 The request for these records is denied in terms of sections 42(3), 44(1) and 37(1) of PAIA as the records contain:

23.1.1 information, which if disclosed under the CER Request, would place the DBSA at a disadvantage in its contractual and other negotiations undertaken in fulfilment of its legislative mandate. It would further prejudice the DBSA in its ability to compete effectively with its competitors (as contemplated in section 42(3)(c) of PAIA);

23.1.2 accounts of consultations, discussions and deliberations that have occurred and records of reports and recommendations relied on by the DBSA. These originated as a consequence of DBSA exercising a power and performing a



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duty conferred and imposed upon it by law (as contemplated under sections 44(1)(a)(i) and (ii) of PAIA);

23.1.3 information provided to the DBSA in confidence. The DBSA is obliged to refuse the request in terms of section 37(1)(a) of PAIA as the records, provided by the third parties, is subject to comprehensive confidentiality undertakings. Any disclosure would constitute a breach of these undertakings and the duty of confidence to the counterparts.

24. This letter constitutes a notice in terms of section 25(3) of PAIA and in terms of section 25(3)(c) of PAIA, we are required to inform you that should you be dissatisfied with the responses contained in this letter, you may lodge an application to court for appropriate relief in terms of section 82 of PAIA. Such application must be brought within 180 (one hundred and eighty) days from the date of this letter, in accordance with section 78(2)(c) of PAIA.

25. We trust that you will find the above in order.

Yours faithfully

DocuSigned by:

D1E7C6E41B324AA

Amanda Chetty

Deputy Information Officer

Development Bank of Southern Africa Limited



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