



Centre for Environmental Rights

Advancing Environmental Rights in South Africa



The Honourable Ms Edna Molewa
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Dear Minister

APPEAL IN TERMS OF SECTION 43 NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 AND THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT: NATIONAL APPEAL REGULATIONS, 2014 AGAINST THE INTEGRATED ENVIRONMENTAL AUTHORISATION ISSUED TO COLENZO POWER (PTY) LTD FOR THE ESTABLISHMENT OF THE 1050MW COLENZO COAL-FIRED POWER STATION AND ASSOCIATED INFRASTRUCTURE NEAR COLENZO, KWAZULU-NATAL PROVINCE

1. We address you on behalf of groundwork and the South Durban Community Environmental Alliance ("our clients"), the appellants in relation to the above matter.
2. We refer to the above integrated environmental authorisation issued by the Chief Director: Integrated Environmental Authorisations on 5 February 2016 ("the authorisation").
3. In terms of regulation 4(2)(a) of the National Environmental Management National Appeal Regulations, 2014 ("the Appeal Regulations"), an appeal submission must be submitted in writing in the form obtainable from the appeal administrator,¹ and must be accompanied by – a statement setting out the grounds of appeal; supporting documentation which is referred to in the appeal submission; and a statement, including supporting documentation by the appellant to confirm compliance with regulation 4(1) of the Appeal Regulations – which is the requirement that an appellant submit an appeal to the appeal administrator, and a copy to the applicant, any registered interested and affected party (I&AP) and organ of state with an interest in the matter within 20 days from the date that the notification of the authorisation was sent to I&APs by the applicant.
4. Our clients received notification of the authorisation on 10 February 2016. As a result, they submit the appeal today, 1 March 2016. We confirm that this appeal is submitted within 20 days from the date of the notification of the authorisation, in order to comply with regulation 4(2)(a) of the Appeal Regulations. As highlighted in the appeal, our clients reserve their rights to challenge the time periods in the Appeal Regulations, and in the Environmental Impact Assessment Regulations, 2014 ("the EIA Regulations").
5. We hereby enclose and submit the following:
 - 5.1. our clients' appeal submissions, marked annexure A; and
 - 5.2. the supporting documentation in respect of our clients' appeal submissions, marked annexures A1 to A9.

Please note that, in keeping with the requirements of regulation 4(2) of the EIA Regulations, we have not attached all of the supporting documents to which we refer in the appeal. In some cases – where we

¹ In terms of Regulation 1(1) an "appeal administrator" means a holder of an office in the Department or Provincial Department responsible for environmental affairs who administers the appeal on behalf of the appeal authority."

believe such information to be in the Minister's possession already - we have inserted links to the documents as footnotes. Should copies of any of these documents be required, kindly let us know.

6. We hereby confirm that this letter, with the attached appeal submissions and supporting documentation, is copied - and will be sent simultaneously - to Debra and John James, directors of the applicant (and second respondent in this appeal), Colenso Power (Pty) Ltd, as well as to additional organs of state with an interest in this matter (as named above). In this regard, the appellants have complied with regulation 4(1) of the Appeal Regulations.
7. We note that the Guideline on the Administration of Appeals, Appendix C to the authorisation, provides that *"an appeal must be submitted in writing in the form of the appeal questionnaire annexed to this guideline ... and accompanied by a completed Appeal and Response Form setting out the grounds of appeal, supporting documentation that is referred to in the appeal which did not form part of the documentation considered when the original decision was made; and a statement by the appellant to confirm compliance with regulation 4(1)"*
8. We have been advised by the Appeal Administrator (Mr Ziyaad Hassam) that the appellants are at liberty to submit an appeal in any format, provided that it complies with the legislated requirements. Accordingly, and given the nature and extent of the appeal, the appellants' grounds of appeal are set out in the attached document marked Annexure A, and not in the abovementioned questionnaire and appeal and response form.
9. Kindly confirm receipt of this letter and the enclosed annexures.
10. Should you have any queries in relation to this appeal, or require any additional information, please let us know.
11. Kindly keep us updated on the progress of the appeal and advise when our clients might expect the appeal decision.

Yours sincerely
CENTRE FOR ENVIRONMENTAL RIGHTS

per: 
Melissa Fourie

Melissa Fourie
Executive Director

Direct email: mfourie@cer.org.za