

APPENDIX E
PUBLIC PARTICIPATION

Makoya Supply Chain Holdings (Pty) Ltd

Public Participation Report for the Blinkpan Railway Siding on the remaining extent of portion 12 as well as on portions 13, 27, 29, 30 and 31 of the farm Koornfontein 27 IS, Mpumalanga Province

Submitted to:

Mpumalanga - Department of Economic Development, Environment and Tourism (MDEDET)

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EXECUTIVE SUMMARY

Introduction

Public participation is one of the most important aspects of any environmental authorisation process. It involves communication and disclosure of relevant project information and provides those interested in/affected by a proposed development an opportunity to provide input into the decision making process. The PPP aims to:

- Assist the proponent to take account of locally relevant conditions; and
- Prevent the imposing of a socially and environmentally insensitive design onto the environment.

Fulfilling the basic requirements of PP is a legislative requirement. Failure to undertake PP may create significant risks to the project as members of the public could mobilise against the project if they have not been given the opportunity to participate.

Project background

The Applicant, Makoya Supply Chain Holdings (Pty) Ltd – Coal Terminal Operations, is making an Application for Environmental Authorisation for the proposed Blinkpan Railway Siding in the Mpumalanga Province, in terms of the National Environmental Management Act, Act No. 107 of 1998 (as amended) (NEMA), and the Environmental Impact Assessment (EIA) Regulations 2010. This Application for Environmental Authorisation is being made to the Competent Authority (CA), namely, the Mpumalanga Department of Economic Development, Environment and Tourism, hereafter referred to as MDEDET, and is required since the proposed development triggers activities which are listed in terms of the NEMA Environmental Impact Assessment Regulations 2010.

The process is undertaken to ensure compliance with regard to the requirements in terms of the National Environmental Management Amendment (Act no 8 of 2004) and the Environmental Impact Assessment Regulations (2010).

The purpose of this report is to provide the Department with an overview of the Public Participation and consultation undertaken to date and it includes the following:

- Tasks undertaken for the Public Participation Process;
- Proof of consultation with stakeholders as well as Interested and Affected Parties (I&APs); and
- Comments and responses.

Approach and Methodology

In approaching the PPP for this project, the consultant team aimed for a rigorous and methodical process that will not only be above scrutiny, thereby limiting project risks based on procedural grounds, but will encourage active engagement from stakeholders so that suggestions can be incorporated into the project design and concerns and conflicts can be openly addressed in an on-going manner.

The methodology for the public participation process undertaken to date includes:

- Stakeholder identification;
- Development of appropriate documentation; and
- Stakeholder notification (through the dissemination of information).

Conclusion

Open and transparent communication is central to the development of trust between all I&APs of this project. Public consultation will be on-going throughout the BA phase and should be continued during the life of the project. This will allow Makoya Supply Chain Holdings (Pty) Ltd the opportunity to address issues and comments as they arise before they become significant, thereby reducing the risk of future issues arising.



ABBREVIATIONS

BA	Basic Assessment
BID	Background Information Document
CBOs	Community Based Organisations
I&AP	Interested and Affected Party
MPRDA	Minerals and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002)
NEMA	National Environmental Management Act, 1998 (Act No. 107 of 1998)
NGOs	Non-governmental Organisations
NWA	National Water Act, 1998 (Act no. 36 of 1998)
PP	Public Participation
PPP	Public Participation Process

1. INTRODUCTION

The Applicant, Makoya Supply Chain Holdings (Pty) Ltd., intends to undertake a Basic Assessment, Air Emissions License Application and an Integrated Water Use License Application process for the Blinkpan Railway Siding. The site serves as a transfer station of final coal product for distribution to the Majuba and Camden Power Stations. The applicant intends to increase the amount of coal stored and transferred at the station to above 100 000 tonnes. The location is already designed to contain more than 100 000 tonnes of coal.

The Blinkpan Railway Siding is located on the remaining extent of portion 12 as well as on portions 13, 27, 29, 30 and 31 of the Farm Koorfontein 27 IS. It is located approximately 30 km south-east of Emalahleni within the Steve Tshwete Local Municipality and Nkangala District, Mpumalanga Province. The site is in close proximity to Koorfontein and Goedehoop Mines.

2. REGULATIONS FOR PUBLIC PARTICIPATION (EIA REGULATIONS, 2010)

Guideline 7 on “Public Participation in the Environmental Impact Assessment Process” published by Department of Environmental Affairs (DEA) in October 2012, states that public participation is one of the most important aspects of the environmental authorisation process. This stems from the requirement that people have a right to be informed about potential decisions that may affect them and that they must be afforded an opportunity to influence those decisions. Effective public participation also facilitates informed decision-making by the Competent Authority and may result in better decisions as the views of all parties are considered.

The benefits of public participation include the following:

- Provides an opportunity for Interested and Affected parties (I&APs), Environmental Assessment Practitioners (EAPs) and the Competent Authority (CA) to obtain clear, accurate and understandable information about the environmental impacts of the proposed activity or implications of a decision;
- Provides I&APs with an opportunity to voice their support, concerns and questions regarding the project, application or decision;
- Provides I&APs with the opportunity to suggest ways of reducing or mitigating negative impacts of an activity and for enhancing positive impacts;
- Enables the applicant to incorporate the needs, preferences and values of affected parties into the application;
- Provides opportunities for clearing up misunderstandings about technical issues, resolving disputes and reconciling conflicting interests;
- It is an important aspect of securing transparency and accountability in decision-making; and
- Contributes toward maintaining a healthy, vibrant democracy.

A Public Participation Process (PPP) is a requirement in terms of Regulations 54 – 57 of the Environmental Impact Assessment Regulations (2010) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the National Environmental Management: Air Quality Act and forms an integral part of any EIA process.

- 54 (1) This regulation only applies in instances where adherence to the provisions of this regulation is specifically required.
- (2) The person conducting a public participation process must take into account any guidelines applicable to public participation as contemplated in section 24J of the Act and must give notice to all potential I&APs of the application which is subjected to public participation by-
- (a) fixing a notice board at a place conspicuous to the public at the boundary or on the fence of:
 - (i) the site where the activity to which the application relates is or is to be undertaken; and
 - (ii) any alternative site mentioned in the application;
 - (b) giving written notice to -
 - (i) the owner or person in control of that land if the applicant is not the owner or person in control of the land;
 - (ii) the occupiers of the site where the activity is or is to be undertaken or to any alternative site where the activity is to be undertaken;
 - (iii) owners and occupiers of land adjacent to the site where the activity is or is to be undertaken or to any alternative site where the activity is to be undertaken;
 - (iv) the municipal councillor of the ward in which the site or alternative site is situated and any organisation of ratepayers that represent the community in the area;
 - (v) the municipality which has jurisdiction in the area;
 - (vi) any organ of state having jurisdiction in respect of any aspect of the activity; and
 - (vii) any other party as required by the competent authority;
 - (c) placing an advertisement in –
 - (i) one local newspaper; or
 - (ii) any official Gazette that is published specifically for the purpose of providing public notice of applications or other submissions made in terms of these Regulations;
 - (d) placing an advertisement in at least one provincial newspaper or national newspaper, if the activity has or may have an impact that extends beyond the boundaries of the metropolitan or local municipality in which it is or will be undertaken: Provided that this paragraph need not be complied with if an advertisement has been placed in an official Gazette referred to in sub regulation (c)(ii); and
 - (e) using reasonable alternative methods, as agreed to by the competent authority, in those instances where a person is desiring to but unable to participate in the process due to
 - (i) illiteracy;
 - (ii) disability;
 - (iii) or any other disadvantage.

- (2) *Where a person is desiring but unable to access written comments as contemplated in sub regulation (1) due to-*
- (i) *A lack of skills to read or write;*
 - (ii) *Disability; or*
 - (iii) *Any other disadvantage, reasonable alternative methods of recording comments must be provided for.*

The National Environmental Management: Air Quality Act 39 of 2004, Chapter 5: Licensing of listed activities, request that:

- (3) (a) *An applicant must take appropriate steps to bring the application to the attention of relevant organs of state, interested persons and the public.*
- (b) *Such steps must include the publication of a notice in at least two newspapers circulating in the area in which the listed activity applied for is or is to be carried out –*
- (i) *describing the nature and purpose of the license applied for;*
 - (ii) *giving particulars of the listed activity, including the place where it is or is to be carried out;*
 - (iii) *stating a reasonable period within which written representations on or objections to the application may be submitted, and the address or place where representations or objections must be submitted; and*
 - (iv) *containing such other particulars as the licensing authority may require.*
(commencement date of s. 38: to be proclaimed)

3. PUBLIC PARTICIPATION PROCESS FOLLOWED TO DATE

This section of the report provides an overview of the tasks undertaken for the PPP to date. All PPP undertaken is in accordance with the requirements of the EIA Regulations (2010). It further provides an outline of the next steps in the PPP and makes recommendations for tasks to be undertaken during the environmental assessment phase of the environmental authorisation process.

The PPP tasks conducted for the proposed new plant development project to date include:

1. Identification of key I&APs (affected and adjacent landowners) and other stakeholders (organs of state and other parties);
2. Formal notification of the application to key I&APs (all adjacent landowners) and other stakeholders;
3. Consultation and correspondence with I&APs and Stakeholders and the addressing of their comments; and
4. Release of the Basic Assessment to I&APs and stakeholders for review and comment.
5. Release of BID

3.1 IDENTIFICATION OF INTERESTED AND AFFECTED PARTIES (AFFECTED AND ADJACENT LANDOWNERS) AND OTHER STAKEHOLDERS (ORGANS OF STATE AND OTHER PARTIES)

- (d) *Scoping reports amended and resubmitted in terms of regulation 30(3);*
 - (e) *Specialist reports and reports on specialised processes compiled in terms of regulation 32;*
 - (f) *Environmental impact assessment reports submitted in terms of regulation 31;*
 - (g) *Environmental impact assessment reports amended and resubmitted in terms of regulation 34(4);
and*
 - (h) *Draft environmental management programmes compiled in terms of regulation 33.*
- (4) *The draft versions of reports referred to in sub regulation (3) must be submitted to the competent authority prior to awarding registered interested and affected parties an opportunity to comment.*
 - (5) *Registered I&APs must submit comments on draft reports contemplated in sub regulation (4) to the EAP, who should record it in accordance with regulations 21, 28 or 31.*
 - (6) *Registered I&APs parties must submit comments on final reports contemplated in sub regulation (3) to the competent authority and provide a copy of such comments to the applicant or EAP.*
 - (7) *The competent authority must, in order to give effect to section 24O of the Act, on receipt of the draft reports contemplated in sub regulation (5), request any State department that administers a law relating to a matter affecting the environment to comment within 40 days.*
 - (8) *The timeframe of 40 days as contemplated in sub regulation (7) must be read as 60 days in the case of waste management activities as contemplated in the National Environmental Management: Waste Act [NEMWA], 2008 (Act No. 59 of 2008), on which the Department of Water Affairs must concur and issue a record of decision in terms of section 49(2) of the NEMWA.*
 - (9) (a) *When a State department is requested by the competent authority to comment, such State department must, within 40 days or in the case of Department of Water Affairs (DWA), 60 days for waste management activities, of being requested to comment by the competent authority, provide comments to the competent authority.*
 - (b) *If a State department fails to submit comments within 40, or 60 days for waste management activities, from the date on which the Minister, MEC, Minister of Mineral Resources or identified competent authority requests such State department in writing to submit comment, it will be regarded that there are no comments.*

Comments of interested and affected parties to be recorded in reports submitted to competent authority

57. (1) *The EAP managing an application for environmental authorisation must ensure that the comments of I&APs are recorded in reports and that such written comments, including records of meetings, are attached to the report, submitted to the competent authority in terms of these Regulations.*

- (3) A notice, notice board or advertisement referred to in sub regulation (2) must
- (a) give details of the application which is subjected to public participation; and
 - (b) state-
 - (i) that the application has been submitted to the competent authority in terms of these Regulations, as the case may be;
 - (ii) whether basic assessment or scoping procedures are being applied to the application, in the case of an application for environmental authorisation;
 - (iii) the nature and location of the activity to which the application relates;
 - (iv) where further information on the application or activity can be obtained; and
 - (v) the manner in which and the person to whom representations in respect of the application may be made.
- (4) A notice board referred to in sub regulation (2) must-
- (a) be of a size at least 60cm by 42cm; and
 - (b) display the required information in lettering and in a format as may be determined by the competent authority.
- (5) Where deviation from sub regulation (2) may be appropriate, the person conducting the public participation process may deviate from the requirements of that sub regulation to the extent and in the manner as may be agreed to by the competent authority.
- (6) Where a basic assessment report, scoping report or environmental impact assessment report as contemplated in regulations 22, 28 and 31 respectively is amended because it has been rejected or because of a request for additional information by the competent authority and such amended report contains new information, the amended basic assessment report, scoping report or environmental impact assessment report must be subjected to the processes contemplated in regulations 21, 27 and 31, as the case may be, on the understanding that the application form need not be resubmitted.
- (7) When complying with this regulation, the person conducting the public participation process must ensure that-
- (a) Information containing all relevant facts in respect of the application is made available to potential interested and affected parties; and
 - (b) Participation by potential interested and affected parties is facilitated in such a manner that all potential interested and affected parties are provided with a reasonable opportunity to comment on the application.
- (8) Unless justified by exceptional circumstances, as agreed to by the competent authority, the applicant and EAP managing the environmental assessment process must refrain from conducting any public participation process during the period of 15 December to 2 January.

Register of interested and affected parties

55. (1) *An EAP managing an application must open and maintain a register which contains the names, contact details and addresses of –*
- (a) *All persons who, as a consequence of the public participation process conducted in respect of that application in terms of regulation 54, have submitted written comments or attended meetings with the applicant or EAP;*
 - (b) *All persons who, after completion of the public participation process referred to in paragraph (a), have requested the applicant or the EAP managing the application, in writing, for their names to be placed on the register; and*
 - (c) *All organs of state which have jurisdiction in respect of the activity to which the application relates.*
- (2) *An EAP managing an application must give access to the register to any person who submits a request for access to the register in writing.*

Registered interested and affected parties entitled to comment on submissions

56. (1) *A registered I&AP is entitled to comment, in writing, on all written submissions, including draft reports made to the competent authority by the applicant or the EAP managing an application, and to bring to the attention of the competent authority any issues which that party believes may be of significance to the consideration of the application, provided that-*
- (a) *Comments are submitted within-*
 - (i) *The timeframes that have been approved or set by the competent authority; or*
 - (ii) *Any extension of a timeframe agreed to by the applicant or EAP;*
 - (b) *A copy of comments submitted directly to the competent authority is served on the EAP; and*
 - (c) *The interested and affected party discloses any direct business, financial, personal or other interest which that party may have in the approval or refusal of the application.*
- (2) *Before the EAP managing an application for environmental authorisation submits a final report compiled in terms of these Regulations to the competent authority, the EAP must give registered interested and affected parties access to, and an opportunity to comment on the report in writing.*
- (3) *The report referred to in sub regulation (2) include-*
- (a) *Basic assessment reports;*
 - (b) *Basic assessment reports amended and resubmitted in terms of regulation 24 (4);*
 - (c) *Scoping reports;*

Public Participation is the involvement of all parties who are either potentially interested and or affected by the proposed development. The principle objective of public participation is to inform and enrich decision making. This is also its key role in this Environmental Impact Assessment (EIA) process.

Interested and Affected parties representing the following sectors of society has been identified:

- National, provincial and local government;
- Agriculture, including local landowners;
- CBOs;
- NGOs;
- Water bodies;
- Industry and mining; and
- Other stakeholders

3.2 FORMAL NOTIFICATION OF THE APPLICATION TO KEY INTERESTED AND AFFECTED PARTIES (INCLUDING ALL AFFECTED AND ADJACENT LANDOWNERS) AND OTHER STAKEHOLDERS

The project was announced as follows:

1. Newspaper advertisement

Publication of media advertisements in the Middelburg Observer and the Citizen on 10 April 2014. **Refer to Annexure 1 for proof of placement of the newspaper adverts.**

2. Site notice placement

In order to inform surrounding communities and adjacent landowners of the proposed development, four (4) site notices were erected on site and at visible locations close to the site. **Refer to Annexure 2 for proof of site notice placement.**

3. Written notification

I&APs and other key stakeholders, who included the abovementioned sectors, were directly informed of the proposed development by email and post on 10 April 2014. The Background Information Document (BID) and Registration and Comment sheets were also supplied to all parties. I&APs are given 40 days to comment and / or raise issues of concern regarding the proposed development. The commenting period will expire on 26 May 2013. **Refer to Annexure 3 for a copy of the BID as well as proof of email and post notifications.**

4. CONSULTATION AND CORRESPONDANCE WITH I&APS AND STAKEHOLDERS

All I&AP registrations and comments that will be received from stakeholders will be formerly recorded in the Comments and Responses Report for inclusion in the Final Basic Assessment Report.