

18 July 2013

## South African Coal Mine Holdings Limited (PTY) LTD

**Public Participation Summary Report for the proposed construction a new coal processing plant and tailings storage facility on portions 5 and 10 of the Farm Voorslag 274 IS, at the existing Umlabu mine, in the Breyten area of the Mpumalanga Province**



**REPORT**






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## 1. INTRODUCTION

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 of suggesting 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.

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

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 it 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 interested and affected parties 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.
- (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 interested and affected party 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;*
- (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 interested and affected parties 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 interested and affected 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, 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 National Environmental Management: Waste Management Act, 2008 (Act No. 59 of 2008).*
- (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, 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 interested and affected parties 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.*
- (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.*

### 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 following PPP tasks were conducted for the proposed new plant development project to date including:

1. Identification of key Interested and Affected Parties (affected and adjacent landowners) and other stakeholders (organs of state and other parties);
2. Formal notification of the application to key Interested and Affected Parties (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 Draft Scoping Report to I&APs and stakeholders for review and comment.

#### ***Task 1: I&AP and Stakeholder identification, registration and the creation of an electronic database***

Public Participation is the involvement of all parties who are either potentially I&AP 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 (I&APs) representing the following sectors of society has been identified:

- National, provincial and local government;
- Agriculture, including local landowners;
- Community Based Organisations;
- Non-Governmental Organisations;
- Water bodies;
- Tourism;
- Industry and mining;
- Commerce; and
- Other stakeholders.

Refer to Appendix 4 for I&AP and stakeholder database.

#### ***Task 2: Formal notification of the application to key Interested and Affected Parties (all adjacent landowners) and other stakeholders***

The project was announced as follows:

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#### 1. Newspaper advertisement

Publication of a media advertisement in Highvelder was placed on Friday 25 January 2013. **Refer to Appendix 3 for proof of placement of the newspaper advert.**

#### 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 Appendix 1 for proof of site notice placement.**

#### 3. Written notification

I&AP's and other key stakeholders, who included the abovementioned sectors, were directly informed of the proposed development by e-mail. The Background Information Document (BID) and Registration and Comment sheets were also supplied to all parties. I&APs were given 30 days to comment and / or raise issues of concern regarding the proposed development. The commenting period expired on the 25<sup>th</sup> of March 2013. **Refer to Appendix 2 for a copy of the BID and proof of email notification.**

### ***Task3: Consultation and correspondence with I&APs and Stakeholders and the addressing of their comments.***

I&APs had the opportunity to raise issues either in writing, by telephone, fax and/or email. Concerns raised, as well as responses to these concerns, are detailed in the Comment and Response Report (refer to Appendix 4). Quarterly public meetings will be held throughout the EIA process to address comments.

### ***Task 4: Release of the Draft Scoping Report to I&AP's and stakeholders for review and comment.***

The Draft Scoping Report (DSR) and Plan of Study (POS) were submitted to the Competent Authority on 18 July 2013 as per the requirements of Regulation 56 (4). The DSR and supporting documentation were subsequently released for a period of 40 days from 18 July to 30 August 2013 for public review and comment. All stakeholders and I&AP's were notified of the DSR availability for comment. Hardcopies of the DSR was submitted to all organs of state and relevant authorities. In addition a copies were placed at the Gerald Sekoto Community Library (Wanderers Avenue, Middelburg. Tel: 013 249 7314); Ermelo Public Library (017 801 3621); and on Environmental Assurance's website: [www.envass.co.za](http://www.envass.co.za).

## **4. Next Phases of the Public Participation Process**

All stakeholders and registered I&AP's will have the opportunity to review and comment on all the documents released in the Final Scoping, Draft EIA and Final EIA phases respectively. All final reports will be released for a period of 21

days for review and comment. The draft EIA will be released for 40 days. During all the PPP phases, hardcopies and CD's of all reports and supporting documents will be submitted to the organs of state and relevant authorities. All the reports will also be placed at the Gerald Sekoto Community Library (Wanderers Avenue, Middelburg. Tel: 013 249 7314); Ermelo Public Library (017 801 3621); and on Environmental Assurance's website: [www.envass.co.za](http://www.envass.co.za).

***All comments and responses received and sent throughout the entire process will be updated and included in comments and responses chapter (as attached in Appendix 4). Note that this PPP Report shall be updated at each phase as required.***

## APPENDIX 1

## APPENDIX 2

## APPENDIX 3

## APPENDIX 4