



mineral resources & energy

Department
Minerals Resources and Energy
REPUBLIC OF SOUTH AFRICA

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Enquiries: S.mathavhela: **Email:** Samuel.mathavhela@dmre.gov.za
Ref no: (MP) 30/5/1/1/3/2/1/ (511) EM
Sub-directorate: Mine Environmental Management: Mpumalanga Region

BY EMAIL

The Director/s

New Largo Coal (Pty) Ltd

5th floor Worley parson Building
39 Melrose Boulevard
Melrose Arch
Johannesburg
2076
Fax: 011 047 7000

Attention: Ms. Nicola Torley
Cell: 082 852 9427
Email: Nicola.torley@seritiza.com

ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (NEMA) AS AMENDED, AND THE ENVIRONMENTAL IMPACT ASSESSMENT (EIA) REGULATIONS, 2014, IN RESPECT OF PORTION O OF THE FARM HARTBEESTFONTEIN 537 JR, PORTION, 5,12, 17, 22, 1, 16, 11, 19, 18, 15, 9, 10, 34, 32, 33, 36, 37, OF THE FARM KLIPFONTEIN 568JR, PORTION 0, 5, 6 OF FARM PRINSHOF 2IS, PORTION 11 OF FARM BANKFONTEIN 216 IR, PORTION 1, 4, OF FARM VLAKFONTEIN 569 JR, PORTION 36, 37, 52, 75 OF FARM HEUVELFONTEIN 215 IR, PORTION 3 OF THE VAN DYKSPUT 214 IR SITUATED IN THE MAGISTERIAL DISTRICT OF EMALAHLENI IN MPUMALANGA REGION.

With reference to the abovementioned application, please be advised that the Department has decided to **refuse** environmental authorization in terms of Regulation 20(1)(b) of the Environmental Impact Assessment (EIA) Regulations, 2014 of the National Environmental Management Act (Act 107 of 1998). The refusal and reasons for the decision are attached herewith.

In terms of regulation 4 (2) of the Environmental Impact Assessment Regulations of 2014, you are instructed to notify all registered interested and affected parties, in writing within 14 (Fourteen) calendar days, from the date of the Department's decision in respect of your application and the relevant provisions regarding the lodgment of appeal must be provided for in terms of the National Appeal Regulations of 2014.

Should you wish to appeal any aspect of the decision, you must submit the appeal to the Minister of Environment, Forestry & Fisheries and a courtesy copy of such an appeal to the Department of Mineral Resources & Energy (Mpumalanga Regional Office), within 20 days from the date of notification, and such appeal must be lodged as prescribed in Chapter 2 of the National Appeal Regulations of 2014, by means of the methods as per prescribed below:

Appeal to the Department of Forestry, Fisheries and Environment.

Attention: Directorate Appeals and Legal Review
Email: appealsdirector@environment.gov.za
By post: Private Bag X 447, **PRETORIA**, 0001
By hand: Environmental House, Corner Steve Biko and Soutpansberg Street, Arcadia,
Pretoria: 0083

Copy of the lodged appeal to the Department of Mineral Resources & Energy

Attention: Regional Manager: Mpumalanga Region
By facsimile: (013) 690 3288
E-mail: lydia.maphoha@dmre.gov.za
By post: Private Bag X 7279, **WITBANK**, 1035
By hand: Saveways Crescent Centre, Nelson Mandela Drive, Emalahleni 1035

Should you decide to appeal, you must comply with the National Appeal Regulation of 2014 in relation to notification of all registered interested and affected parties, and a copy of the official appeal form can be obtained from the Department of Forestry, Fisheries and Environment.

Kind Regards

U.U. Ndlovu MP 30/S/1/1/3/1/ (511) EM
CHIEF DIRECTOR: NOTHERN REGION-MINERAL & PETROLEUM REGULATION
MPUMALANGA REGIONAL OFFICE
DATE: 29.03.2023

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A. DEFINITIONS

“activity” means an activity identified-

- (a) in Government Notice No. R. 983 of 2014 as a listed activity; or
- (b) in any other notice published by the minister or MEC in terms of Section 24D of the Act as a listed activity or specified activity.

“associated structures or infrastructure” means the building or infrastructure that is necessary for the functioning of a facility or activity or that is used for an ancillary service or use from the facility.

“commence” means the start of any physical activity, including site preparation and any other activity on the site in furtherance of a listed activity or specified activity, but does not include any activity required for purposes of an investigation or feasibility study as long as such investigation or feasibility study does not constitute a listed activity or specified activity.

“construction” means the building, erection or expansion of a facility, structure or infrastructure that is necessary for the undertaking of an activity, but excludes any modification, alteration or upgrading of such facility, structure or infrastructure that does not result in a change to the nature of the activity being undertaken or an increase in the production, storage or transportation capacity of that facility, structure or infrastructure.

“independent”, in relation to an EAP or a person compiling a specialist report or undertaking a specialised process or appointed as a member of an appeal panel, means

- a) that such EAP or person has no business, financial, personal or other interest in the activity, application or appeal in respect of which that EAP or person is appointed in terms of these Regulations other than fair remuneration for work performed in connection with that activity, application or appeal; or
- b) that there are no circumstances that may compromise the objectivity of the EAP or person in performing such work.

“public participation process” in relation to the assessment of the environmental impact of any application for an environmental authorisation, means process by which potential interested and affected parties are given an opportunity to comment on, or raise issues relevant to the application, .

“registered interested and affected party”, in relation to an application, means an interested and affected party whose name is recorded in the register opened for that application in terms of Regulation 42.

“the Act” include the schedule and regulations and any notice issued under the Act.

“the Department” means the Department of Mineral Resources & Energy.

“the Regulations” means the Environmental Impact Assessment Regulations, 2014.

B. ENVIRONMENTAL AUTHORISATION REFUSAL

REFUSAL OF ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (NEMA) AS AMENDED, READ WITH THE ENVIRONMENTAL IMPACT ASSESSMENT (EIA) REGULATIONS 2014.

1. REFERENCE NUMBER: (MP) 30/5/1/1/3/2/1 (511) MR

2. BRIEF DESCRIPTION OF THE ACTIVITIES

New Largo Coal (Pty) Ltd has lodged an application for an amendment of the environmental authorization. The proposed additional activities, include establishment of residue stockpile and residue deposit, widening of the road, discharge of treated sewage effluent into watercourse, the infilling or depositing of any material of more than 10 cubic meters into or dredging excavation, removal or moving of soil, sand shells, shell grit Peebles or rock of more than 10 cubic meters from the watercourse, the development of facilities or infrastructure for the off-stream storage of water including dams and reservoirs with combined capacity of 50 000 cubic meters or more, clearance of an area of 20ha or more of indigenous vegetation.

3. LOCATION

The area is located approximately 8 km south of Ogies, within the Magisterial District of Emalahleni, Mpumalanga Region.

4. APPLICANT

The Director/s

New Largo Coal (Pty) Ltd

5th floor Worley parson Building
39 Melrose Boulevard
Melrose Arch
Johannesburg
2076
Fax: 011 047 7000

Attention: Ms. Nicola Torley

Cell: 082 852 9427

Email: Nicola.torley@seritiza.com

5. ENVIRONMENTAL ASSESSMENT PRACTITIONER

WSP Group Africa (Pty) Ltd

P.O Box 6001
Halfway house
1685

Contact Person: Olivian Allen

Cell No: 082 446 93 85

Email: Olivia.allen@wsp.com

6. SITE VISIT

A site inspection was never conducted.

7. DECISION

The Department is not satisfied on the basis of the information contained in the submitted BAR for evaluation in support of the application for amendment of the environmental authorization. An Environmental Authorization is **refused** in terms of Regulation 20(1)(b) of Environmental Impact Assessment Regulations, 2014 of the National Environmental Management Act, 1998 (Act No. 107 of 1998, as amended).

Details / reasons regarding the basis on which the Department reached this decision is set out below:

8. BACKGROUND

The applicant, **New Largo Coal (Pty) Ltd**, applied for an amendment of environmental authorization to carry out the following activity:

The proposed additional activities, include establishment of residue stockpile and residue deposit, widening of the road, discharge of treated sewage effluent into watercourse, the infilling or depositing of any material of more than 10 cubic meters into or dredging excavation, removal or moving of soil, sand shells, shell grit Peebles or rock of more than 10 cubic meters from the watercourse, the development of facilities or infrastructure for the off-stream storage of water including dams and reservoirs with combined capacity of 50 000 cubic meters or more, clearance of an area of 20ha or more of indigenous vegetation.

The applicant appointed **WSP Group Africa (Pty) Ltd** to undertake an Environmental Impact Assessment Process.

8.1 INFORMATION CONSIDERED IN MAKING THE DECISION

In reaching its decision, the Department took, *inter alia*, the following into consideration –

- a) The information contained in the application form received by the Department;
- b) The Basic Assessment Report (BAR) received by the Department;
- c) The objectives and requirements of relevant legislation (Section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998), other environmental legislation, policies and guidelines.

8.2 KEY FACTORS CONSIDERED IN MAKING THE DECISION

All information presented to the Department was taken into account in the Department's consideration of the application. A summary of the issues which, in the Department's view, were of the most significance is set out below:

- a) The Basic Assessment Report (BAR) received by the Department,

- b) The application for an amendment of the approved environmental management programme (EMP) in terms of the Mineral and Petroleum Development Act of 2002 as amended which is deemed an environmental authorization. The applied amendment will result in a change of the scope of a valid environmental authorization where such change will increase the level in the nature of the impact where such level was not taken into consideration in the initial environmental authorization in terms of part 2 (Reg 31 (b) and the submitted application constitute a listed activity.

8.3 FINDINGS

After consideration of the information and factors listed above, the Department made the following findings –

- a) The submitted application has not taken into account Reg 15 (3) and 54 (2) of the NEMA EIA Regulation; the submitted report further identified and prescribed triggered listed activities.

In view of the above, the Department has concluded that, the activity will conflict with the general objectives of Integrated Environmental Management laid down in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998), and that any potentially detrimental environmental impacts resulting from the activities cannot be mitigated to acceptable levels.

The attention of the applicant refusal of the Environmental Authorization is further drawn to the following requirements set out below:

9. APPEAL OF REFUSAL FOR THE EA

9.1 The applicant of the authorization refused must notify every **registered** interested and affected party, in writing and within fourteen **(14) days** of receiving the Department's decision.

9.2 The notification referred to in 9.1 must –

9.2.1 Specify the date on which the Authorization was refused.

9.2.2 Inform the registered interested and affected parties of the appeal procedure provided for in Chapter 2 of the National Appeal Regulations of 2014.

9.2.3 Advise the interested and affected parties that a copy of the refused Authorisation and reasons for the decision will be furnished on request.

9.2.4 An appeal against the decision must be lodged in terms of Chapter 2 of the National Appeal Regulations of 2014.

Signed on this... 23rd day of... MARCH.....2023, at... PRETORIA.....

H. U. Kalopae MP 30/S/1/1/3/2/1 (S11) EM
CHIEF DIRECTOR
NORHERN -REGION: MINERAL & PETROLEUM REGULATION
MPUMALANGA REGIONAL OFFICE

Acknowledgement of Receipt by: Mr. /Ms. _____

On behalf of the company _____

On this _____ **day of** _____ **2023, at** _____

Signature: