

6.3 GW of coal; 17.8 GW of renewables; and 8.9 GW of other generation sources. Although it is agreed that the development of renewables will mitigate climate change concerns to a certain extent, the need for coal-based energy has been identified by the DoE in order to meet the country's urgent base-load power needs. Therefore, on the basis of this policy, the DoE determined that the development of coal-fired power generation is required to address South Africa's energy security needs.

Second Respondent's Response: For the reasons outlined above, the Second Respondent does not believe that the Thabametsi Project offends S2(4) of the NEMA.

5.13.1.6 Ad Paragraphs 65.1.10 – 65.1.16 Allegation made by Appellant that the Thabametsi Project violates section 2(4)(b) of the NEMA which requires environmental management that is integrated and therefore requires the selection of the best practicable environmental option. Other environmental principles are raised and the Appellant alleges that the Thabametsi Project, the EIA and the decision-maker failed to comply with these principles such as polluter pays principle and health impacts on the community (paragraphs 65.1.12 and 65.1.13) access to water and health impacts, precautionary principle (paragraph 65.1.16), failure to consider climate change (paragraph 65.1.16). Second Respondent's Response: As is indicated in the detailed response to the allegations made by the Appellant in Paragraph 65.1.9 (refer to paragraph 5.13.1.1 – 65.1.1.6 above) the Second Respondent has complied with the law in its compilation and

submission of the various specialist studies in the EIA process. The Second Respondent therefore believes that there is no violation of Section 2(4)(b) of the NEMA.

5.13.1.7 Allegation by Appellant that the DEA should have required:

5.13.1.7.1 Ad paragraph 65.1.17.1 detailed health impact assessment; Second Respondent's Response: Health impacts were assessed in the air quality and health risk specialist study undertaken as part of the EIA (refer to Appendix E of the FEIR).

5.13.1.7.2 Ad paragraph 65.1.17.2 detailed climate change studies Second Respondent's Response: A detailed climate change assessment was not undertaken. The impacts of Green House Gas ("GHG") emissions were considered in the Air Quality impact assessment. It must be noted that the issue of impacts on climate change was not raised by any I&AP (including the Appellant) or the DEA throughout the process.

5.13.1.7.3 Ad paragraph 65.1.18 Allegation by Appellant that I&APs should have been granted an opportunity to make submissions in relation to such studies. Second Respondent's Response: Numerous opportunities were provided for Interested and affected parties (I&APs) to submit their comments in the EIA process. I&APs were invited to provide their comments on the draft Environmental Impact Assessment Report (DEIR) and the specialist studies appended to the DEIR during a 40-day

review period which ran from 12 March 2014 to 23 April 2014. Following requests from stakeholders for additional time within which to submit comments, the review period was extended for an additional 10 days. I&APs were required to submit comments by 06 May 2014. In addition, members of the public and I&APs were invited to attend a public open day which was held in Lephalale on 01 April 2014. The purpose of the public meeting was to present the outcome of the EIA and the specialist studies which were undertaken and to obtain comment and record issues raised by I&APs on the DEIR. I&APs were also provided with an opportunity to comment on the FEIR submitted to the DEA. Letters notifying I&APs of the availability of the FEIR on 06 May 2014. Evidence of the public participation process which was undertaken is included in Appendix D of the FEIR. The Health Impact Assessment and AQ impact assessment (which considered climate change) were included within the EIA which was made available for public comment. Note: Comments on the DEIR were received from The Appellant on 23 April 2015. The responses to The Appellant's's submission are contained in Table 2 (page 105) of the Comments and Responses Report (Appendix E1 of the FEIR). Issues regarding climate change were not raised in this submission.

5.13.2 Ad Paragraph 65.2: DEA's alleged failure to comply with the general objectives of integrated environmental management laid down in Chapter 5 of the NEMA through failing to meet

the requirements of NEMWA for a WML and consequently an integrated licence as required by the NEMWA and NEMA

- 5.13.2.1 The Appellant's submissions are directed at the DEA and its decision making process that was applied in approving the Thabametsi EA. Newshelf has therefore not commented on these issues. However, Newshelf has commented on certain substantive issues related to the Thabametsi Project, as appropriate.
- 5.13.2.2 Ad Paragraph 65.2.7. Allegation by the Appellant that the sections of the EA relating to waste management (i.e. the ash dumps and pollution control dams) are inadequate and therefore do not conform to Section 51 of the NEMWA. Second Respondent's Response: These comments are directed at the outcome of the decision-making process of the DEA. In the Second Respondent's opinion, the conditions are adequate and conform to Section 51 of the NEMWA.
- 5.13.3 Ad Paragraph 65.3: DEA's alleged failure to give effect to the general objectives of integrated environmental management laid down in Chapter 5 of the NEMA through failing to comply with S24O(1)(b)(vii) and S24O(1)(c) of the NEMA
- 5.13.3.1 The Appellant's submissions are directed at the DEA and its decision making process that was applied in approving the Thabametsi EA, particularly in respect of the alleged failure to consider comments from other government authorities or to consult adequately with other government authorities. Newshelf has therefore not commented on these issues. However, Newshelf has commented on certain substantive issues related to the Thabametsi Project, as appropriate.

- 5.13.3.2 Ad Paragraph 65.3.5: The Appellant alleges that the Comments and Response Report does not indicate that LDWAS participated in the EIA process. Second Respondent's Response: Department of Water Affairs (now Department of Water and Sanitation [DWS]) were registered as Organs of State on the Thabametsi Project's database of I&APs from the outset of the Thabametsi Project. Comments were received from Department of Water Affairs – Office of the Chief Director: Limpopo via a letter dated 31 May 2013. The DWS's comments were included in the Comments and Responses Report (Appendix D2) and the letter received from the DWS was included in the FEIR under (Appendix D7). *Note: The DEA has internal processes for obtaining comments and inputs from other organ of state departments. One of the reasons why the EA was issued late was because the DEA was waiting for comments from the DWS and from the Directorate: Air Quality.*
- 5.13.3.3 Ad Paragraph 65.3.7. Allegation by the Appellant that SAHRA made comments on 12 May 2014, that the Thabametsi Project site contains engravings and stone walls and that the area is considered to be of high paleontological sensitivity. The comments and responses report within the FEIR states that a paleontological impact assessment report will be undertaken and sent to SAHRA for final comment. Second Respondent's Response: This is correct. SAHRA did not however state that the paleontological study must be undertaken prior to an EA being issued.

5.13.3.4 Ad Paragraph 65.3.9 Allegation by the appellant that without SAHRA approval and in light of section 38 of the NHRA, the applicant cannot proceed with the Thabametsi Project without SAHRA approval. Second Respondent's Response: In terms of Section 38(8) of the NHRA, the provisions of Section 38 do not apply if an evaluation of the impact of such development on heritage resources is required in terms of any other legislation, provided that the consenting authority ensures that the evaluation of impacts fulfils the requirements of the relevant heritage resources authority in terms of Section 38(3) and any comments and recommendations of the relevant resources authority with regard to such development have been taken into account prior to the granting of the consent.

As an EIA process was required to be undertaken for the project in terms of the EIA Regulations promulgated under the National Environmental Management Act (NEMA; Act No 107 of 1998), the provisions of Section 38 were not applicable to the proposed development.

5.13.3.5 Ad Paragraph 65.3.11: The Appellant alleges that it or its legal counsel was advised that the paleontological assessment was conducted and SAHRA submitted final comments on 23 July 2014. SAHRA recommended a buffer zone of 30 metres around Nelson's Kop and "*no impact on any of the archaeological resources is allowed*". If this is not possible, the archaeologist must re-assess the situation and a mitigation in terms of S35(4) of the

NHRA must be applied for and regular monitoring of the site by the ECO.

Second Respondent's Response: In terms of the heritage impact assessment, potential impacts on a heritage site of significance (Nelsonskop) are associated with the proposed power line alternative 3, which passes in close proximity to this site. Specific management in this area would be required to minimise the risk of any impacts on this area should this alternative be selected as the preferred option. Alternative 3 was however concluded to be the least preferred alternative for the power line in terms of all aspects. Power line Alternative 1 was recommended as the preferred alternative for implementation. Therefore, this requirement of SAHRA is not relevant.

5.13.3.6 Ad Paragraph 65.3.12: Allegation by the Appellant that the FEIR does not refer to the paleontological assessment, the heritage impact assessment dated March 2014, it only contains an archaeological impact assessment and the FEIR does not reflect the final comments submitted by SAHRA to the FEIR.

Second Respondent's Response: SAHRA's interim comment dated 12 May 2014 states that a paleontological impact assessment must be undertaken in order for them to issue their final comment on the Thabametsi Project. There was no requirement for this to be completed prior to the issuing of the Thabametsi EA. The paleontological study was therefore undertaken in order to obtain SAHRA's final comment on the Thabametsi Project

and not in support of the application for an environmental authorisation.

5.13.3.7 Ad Paragraph 65.3.13 Allegation by the Appellant that the SAHRA final comments have not been incorporated into the FEIR. Second Respondent's Response: SAHRA's final comments were received after submission of the FEIR. The comments were submitted to DEA once received.

5.13.3.8 Ad Paragraph 65.3.14 The Appellant alleges that the EA was granted without DEA having regard to the SAHRA's final comments or the paleontological assessment, as it was required by the NEMA to do. Second Respondent's Response: The comments were submitted to DEA once received. It is therefore assumed that DEA considered these comments in their decision-making.

5.13.3.9 Ad Paragraph 65.3.15 Allegation by the Appellant that the FEIR should have been amended to reflect the SAHRA final comments and to address the details of the paleontological assessment. The appellant further alleges that the paleontological assessment and the amended FEIR should have been made available to the IAP's for comment. Second Respondent's Response: SAHRA's interim comment dated 12 May 2014 states that a paleontological impact assessment must be undertaken in order for them to issue their final comment on the Thabametsi Project. The paleontological study was therefore undertaken in order to obtain SAHRA's final comment on the project

and not in support of the application for environmental authorisation.

5.13.4 Ad Paragraph 65.4: DEA's alleged failure to take account of feasible alternatives as required by section S240(1)(b)(iv) of the NEMA -

5.13.4.1 The Appellant's submissions are directed primarily at the DEA in respect of its decision making process that was applied in approving the Thabametsi EA, particularly in respect of the alleged failure to consider feasible alternatives. Newshelf has therefore not commented on these issues. However, Newshelf has commented on certain substantive issues related to the Thabametsi Project, as appropriate.

5.13.4.2 Ad Paragraph 65.4.2: Allegation by the Appellant that the "no-go option" should have been considered. Second Respondent's Response: The "no-go option" was considered in the EIA. In this regard, the following was stated: The National Integrated Resource Plan (IRP) developed by the Department of Energy has identified the need for power generation from coal as part of the technology mix for power generation in the country in the next 20 years. The need for the project at a national scale has therefore been determined. The 'do nothing' option will, therefore, not address this national need and may result in the electricity demands in the country not being met in the short-term. This has serious short- to medium-term implications for socio-economic development in South Africa. Without the new proposed coal-fired power station in Lephalale, an

alternative means of generating an additional 1200 MW capacity would be required to be sought from another power generation source or a similar source in another area. However, as more than 50% of the remaining coal reserves in the country are located in the Waterberg area, and optimal grid connection opportunities are available, not developing the project on the proposed site would see such an opportunity being lost. At a local level, the level of unemployment will remain the same and there will not be any transfer of skills to people in terms of the construction and operation of the power station. This power station is intended to be an IPP project to alleviate pressure on Eskom's base-load power supply in the short- medium term through independent power generation. Without the implementation of this project, this will not be achieved, and the greater power supply in the country will be compromised in the near future. This has potentially significant negative impacts on economic growth and social well-being. In addition, limitations on electricity supply may impact the environment in general due to local air quality impacts due to use of low quality coal for domestic purposes, collection of wood from natural areas.

5.13.4.3 Ad Paragraph 65.4.5: Appellant alleges that renewable energy options (such as solar power) should have been considered and that this should have formed part of the EIA. Second Respondent's Response: Renewable energy alternatives do not offer a base-load solution to South Africa's energy requirements.

5.13.4.4 Ad Paragraph 65.4.8: Appellant alleges that, as shareholder in Newshelf, Engie (previously GDF Suez) has “*unique expertise in renewable energy and energy efficiency*” and that such technology should substitute for the coal fired technology of the Thabametsi station. Second Respondent's Response: Engie has expertise in renewable energy sources but the adaptation of this Thabametsi Project was in response to base-load power for a coal-fired station in term of the RfP produced by the DoE. While renewable energy sources play a vital role in a diversified electricity production scenario, it is submitted that coal-fired power stations such as Thabametsi still have a critical role to play in securing South Africa's medium term energy future.

5.13.5 Ad Paragraph 65.5: DEA's alleged failure to consider applicable policies relevant to the application as required by section S240(1)(b)(viii) of the NEMA

5.13.5.1 The Appellant's submissions are directed at the DEA and its decision making process that was applied in approving the Thabametsi EA, particularly in respect of the alleged failure to consider guidelines, policies and department instruments, specifically the National Climate Change Response White Paper (“**The White Paper**”). Newshelf has therefore not commented on these issues. However, Newshelf has commented on certain substantive issues related to the Project, as appropriate.

5.13.5.2 Ad Paragraphs 65.5.1 – 65.5.5: Response to White Paper/ climate change issues. Second Respondent's

Response: The White Paper does not constitute binding legislation but is a guideline policy only. As South Africa is a non-annexure I Party to the Kyoto Protocol there are no legally binding obligations placed on South Africa to reduce Greenhouse Gas Emissions. There are also no obligations in South African law to consider climate change issues in the EIA process. This notwithstanding, the issue of Climate Change was considered in the Air Quality Assessment and Risk Study.

5.14 Ad Paragraph 66: Grounds of Appeal – Second Ground of Appeal- The DEA's alleged Failure to take into account the Air Quality Impacts of the Project and in so doing granting an Authorisation which contravenes South Africa's Air Quality Legislation-

5.14.1 The Appellant's submissions are directed at the DEA and its decision making process that was applied in approving the Thabametsi EA, particularly in respect of the alleged failure of the DEA and the FEIR to consider significant air quality issues related to the project. Newsheff has therefore not commented on these issues. However, Newsheff has commented on certain substantive issues related to the Thabametsi Project, as appropriate.

5.14.2 Ad Paragraph 66.1. Appellant alleges that the FEIR failed to consider the significant contribution that the project will have on the already poor air quality of the WBPA. Second Respondent's Response: The cumulative air quality impact is considered in the FEIR.

- 5.14.3 Ad Paragraph 66.2. Appellant alleges that the FEIR failed to consider the detrimental and often fatal health impacts of coal-fired power stations air emissions on people living in close proximity to them. Second Respondent's Response: A health impact assessment was undertaken for the Project and details the potential impacts associated with a project of this nature. The cumulative health impact is considered in the FEIR.
- 5.14.4 Ad Paragraph 66.3 Allegation by the Appellant that the FEIR failed to consider the objectives and provisions of South Africa's national air quality legislation; Second Respondent's Response: The Air Quality Assessment was undertaken in accordance with the National Environmental Management Air Quality Act (Act 39 of 2004) (NEM:AQA).
- 5.14.5 Ad Paragraphs 67-71: Appellant alleges that the air quality impacts of the project were not considered in accordance with the 2012 National Framework or with the National Ambient Air Quality Standards ("NAAQS"). Second Respondents Response: The air quality assessment assesses the predicted levels of emissions in terms of the current and future national ambient standards.
- 5.14.6 Ad Paragraphs 72-75: The Appellant alleges that there will be negative air quality impacts associated with the Project and refers to certain air quality studies conducted by Eskom on Mpumalanga air quality. The Appellant alleges that even when only Matimba was operating, Eskom reports show significant health risks related to poor air quality caused by the coal-fired stations. The Appellant further alleges that there are significant air quality associated health risks

associated with the operation of the Medupi station as per Eskom's own reports. Second Respondent's Response: The study to which the Appellant refers was not part of the EIA process or FEIR, thus Newshel cannot comment directly on the content of the study. An air quality and health risk specialist study was undertaken as part of the Environmental Impact Assessment (EIA) (refer to Appendix E of the FEIR). The study was undertaken by uMoya-NILU (air quality assessment) and CSIR (health impact assessment) and is referenced as: "*uMoya-NILU (2013): Air quality and health risk specialist study for the EIA for the Proposed Thabametsi Coal-Fired Power Station near Lephalale, Limpopo Province, Report No. uMN059-2013, November 2013.*" Included is a health risk assessment considering exposure to the air pollution predicted for the proposed power station (as modelled through the air quality impact assessment). It was concluded that the human health risk for development of acute and chronic adverse effects from exposure to PM10 from the stack, stockpile and ash dump and SO2 and NO2 from the stacks is low at all three communities of concern (Lephalale, Onverwacht and Marapong) as well as at the other off-site sensitive receptor areas investigated.

5.14.7 Ad Paragraph 76: The Appellant alleges that the threat assessment which informs the draft AQMP reports clearly that the development will result in concentrated SO2 and PM10 exceedances in the Lephalale area. Second Respondent's Response: Please refer to comments made in paragraph 5.14.6 above.

5.14.8 Ad Paragraph 77: The Appellant alleges that the governmental resources are not adequate to cope with the AQM in the WBPA and that the decision to grant the

authorisation goes against the clean air quality management intentions for the WBPA. Second Respondent's Response: Please refer to comments made in paragraph 5.14.6 above.

5.14.9 Ad Paragraph 78: The Appellant alleges that the fact that the Waterberg-Bonjala area has been declared a priority area indicates that the NAAQS are being or may be exceeded in the area. Second Respondent's Response: Please refer to comments made in paragraph 5.14.6 above.

5.14.10 Ad Paragraph 80: The Appellant alleges that there was no appropriate assessment of air quality considerations in the FEIR and that it cannot be left to the MBPA AQMP to address the issue. Second Respondent's Response: The EIA does not state that the air quality issue will be addressed by the WBPA AQMP. An air quality and health risk specialist study for was undertaken as part of the EIA (refer to Appendix E of the FEIR). The study was undertaken by uMoya-NILU and is referenced as: "uMoya-NILU (2013): Air quality and health risk specialist study for the EIA for the Proposed Thabametsi Coal-Fired Power Station near Lephalale, Limpopo Province, Report No. uMN059-2013, November 2013." The air quality specialist study concluded that the potential impacts of the project would be low for all potential pollutants.

5.14.11 Ad Paragraph 81: The Appellant alleges that I&APs such as the Appellant were not advised that the AEL application had been advertised for comment and were therefore not able to make submissions on the application. It is also alleged that the 14 day comment period was insufficient and a violation of PAJA. Second Respondent's Response:

Advertisements announcing the AEL were placed in “The Star” newspaper on 22 July 2014, the Mogol Pos on 25 July 2014 and the Ntshebele Rural Rhythm 25 July 2014. The AEL application is still in process and is a separate permitting process from the EIA. The need for the AEL and all other permits was included in all public documentation from the outset of the process and all I&APs were therefore aware of the requirement and could have raised any issues at any time.

5.14.12 Ad Paragraph 82: The Appellant alleges that if the AQA, NEMA, NAAQS and WBPA declaration as well as the 2012 National Framework had been taken into account the DEA would not have issued the EA. Second Respondent’s Response: The Second Respondent complied with all legal obligations and all relevant guidelines and best practices.

5.15 Ad Paragraphs 83-88: Grounds of Appeal – Third Ground of Appeal- The DEA’s alleged failure to take into account cumulative impacts of the Project

5.15.1 Regulation 31(2)(l)(i) requires the EIA to contain an assessment of each identified potentially significant impact including cumulative impacts. The appellant alleges that the FEIR did not address this issue. Second Respondent’s Response: Significant cumulative impacts that could occur due to the development of the Thabametsi power station and its associated infrastructure in proximity to other industrial-type developments were assessed in Chapter 8 of the FEIR submitted to the DEA. Potential Cumulative Impacts assessed included: Impacts on biodiversity; Impacts on soils and agricultural potential; Impacts on surface water resources; Impacts on groundwater resources; Impacts on

air quality and human health; Impacts on heritage site; Visual impacts and Socio-economic impacts.

5.15.2 Ad Paragraph 86.1 The FEIR admits cumulative biodiversity impacts.

5.15.3 Ad Paragraph 86.2 Allegation that no assessment in the FEIR of the cumulative impacts on water supply. Second Respondent's Response: Assessment of cumulative impacts on water is presented in Section 8.3.3 and 8.3.4 of the FEIR as well as in the specialist reports (Appendix H and L).

5.15.4 Ad Paragraph 86.3 Cumulative impact of seepage on groundwater Second Respondent's Response: Although the impact could not be quantified due to a lack of information from other developments, the risk of cumulative impacts is indicated as being potentially significant.

5.15.5 Ad Paragraph 86.4: Cumulative impact on air quality. Second Respondent's Response Although the impact could not be quantified due to a lack of information from other developments, the risk of cumulative impacts is indicated as being potentially significant.

5.15.6 Ad Paragraph 86.5: Cumulative impact on heritage sites. Second Respondent's Response: The Palaeontology study was not done as part of the EIA but from this study impacts are expected to be low.

- 5.15.7 Ad Paragraph 86.6: Cumulative visual impact. Second Respondent's Response The FEIR admits cumulative visual impacts.
- 5.15.8 Ad Paragraph 86.7: Cumulative socio-economic impact. Second Respondent's Response Cumulative health impacts are considered within the health impact assessment.
- 5.15.9 Ad Paragraphs 87 and 88: Allegation that Cumulative Impacts were not addressed in the FEIR and risk of such cumulative impacts is high. Second Respondent's Response: Cumulative impacts are addressed in Chapter 8 of the FEIR as well as within the various specialist studies.
- 5.16 Ad Paragraphs 89 – 105 : Grounds of Appeal – Fourth Ground of Appeal- The DEA's alleged failure to take into account the International and National Obligations to Mitigate and Take Positive Steps against Climate Change
- 5.16.1 Ad Paragraphs 91- 95 Allegation by the Appellant that climate change will impact on water resources, air quality, human health, biodiversity and marine fisheries. Allegation that South Africa is a signatory to Kyoto and has expressed an intention to participate in an international agreement to reduce GHG emissions. Allegation by Appellant that South Africa is one of the world's largest carbon dioxide emitters. 2012 Framework for Air Quality acknowledges that *"specialist air quality impact assessments, must consider greenhouse gas emissions as well"*. Allegation by the Appellant that the White Paper on Climate Change places obligations on the decision maker in respect of the Thabametsi Project. Second Respondent's Response: South Africa is a non-annexure I party to the Kyoto Protocol and as

such here are no legally binding obligations on South Africa to reduce GHG emissions. This notwithstanding, the issue of climate change was considered in the Air Quality Assessment and Risk Study, which information was before the decision-maker when the Thabametsi EA was issued.

5.16.2 Ad Paragraph 96 The EIA should include climate change considerations and an assessment of and proposal for reducing

5.16.2.1 direct and indirect GHG emissions;

5.16.2.2 mitigation measures

5.16.2.3 adaptation and restoration

Second Respondent's Response: In the absence of a requirement either from the DEA or from any of the I&APs, there is no legal obligation for this study to be undertaken. This notwithstanding, the issue of climate change was considered in the Air Quality Assessment and Risk Study, which information was before the decision-maker when the Thabametsi EA was issued

5.17 Ad Paragraph 106 - Grounds of Appeal – Fifth Ground of Appeal- Allegation that the Conditions of the Authorisation are vague and unenforceable -

5.17.1 Ad Paragraph 106.1: The Appellant alleges that the conditions of the Thabametsi EA are vague because the EMPr is a document still to be concluded. Second Respondent's Response It is submitted that this is normal practice. The EMPr is a living document and is designed and updated as the project progresses.

5.17.2 Ad Paragraph 106.2: The Appellant alleges that the drawings for the ash dump design still have to be done and this provides for uncertainty in the Thabametsi EA. Second Respondent's Response: The EIA requires that the ash dump design be undertaken in accordance with the legislative requirements. This would require that the design is adequate to minimise the risk of pollution.

5.17.3 Ad Paragraph 106.3: Appellant alleges that condition 17.2.7 of the Thabametsi EA relating to run-off water is incomplete. Second Respondent's Response: The Second Respondent believes that the condition is adequate but a more detailed response would have to be provided by the decision-making authority responsible for drafting the condition.

5.18 Ad Paragraphs 107- 108 : Grounds of Appeal – Sixth Ground of Appeal- Allegation by the Appellant that the granting of the Thabametsi EA is in contravention of PAJA

5.18.1 The Appellant's submissions are made directly at the DEA and its decision making process that was applied in approving the Thabametsi EA, particularly in respect of the allegation of unlawful administrative action in terms of PAJA relating to the failure of the DEA and the FEIR to take into account considerations relevant to the Thabametsi Project. Newshel has therefore not commented on these issues unless they overlap with other issues in the Appeal which were within the control of Newshel or its consultants.

5.18.2 Ad Paragraph 108.1.2 The Appellant alleges that the FEIR claims that it will be beneficial for the economy and job creation but fails to take into account health impacts, climate change and external costs that will have to be borne by the

State as a result of the project operations. Second Respondent's Response: The EIA presents both the positive and negative impacts of the Thabametsi Project.

6. Conclusion and Prayer

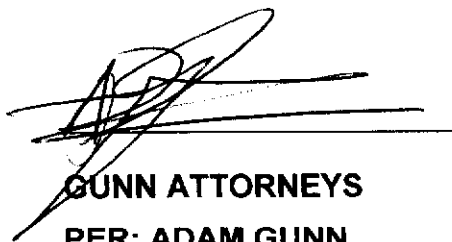
6.1 Summary:

- 6.1.1 The proposal for the Thabametsi Project was validly submitted in terms of the DoE RFP and under the CBIPPP programme and in line with the IRP and Minister of Energy's determination in terms of the Electricity Regulation Act, 2006;
- 6.1.2 Newshelf has an Integrated Waste License and EA for the Thabametsi Project. Such authorisations were validly issued based on an EIA process and supporting studies that complied with the law and best practice;
- 6.1.3 Electricity is constrained and in the national interest new projects must be allowed to proceed if the demand for electricity is to be met, provided that the environmental impacts of the project can be sufficiently mitigated, thus projects such as Thabametsi Project must proceed to meet base-load electricity supply in the national interest;
- 6.1.4 The Thabametsi Project will not lead to unacceptable environmental impacts, the environmental impacts associated therewith can be mitigated to an acceptable level and in accordance with South Africa's relevant environmental legislation and this has been demonstrated during the EIA process; and
- 6.1.5 There are sufficient checks and balances throughout the environmental licensing process and through enforcement of legislation to ensure that the Thabametsi Project does not cause unacceptable environmental impacts.

6.2 Newshelf respectfully submits that for the above reasons and as is more fully explained in this response, that the Department did not err in its decision to grant the EA to Newshelf for the Thabametsi Project.

6.3 Newshelf therefore requests that the Appeal submitted by the Appellant be dismissed.

Should The Appeals Administrator require any further information, the Administrator is welcome to contact the undersigned.



GUNN ATTORNEYS

PER: ADAM GUNN

10 JUNE 2015

15 Glenhove Road

Melrose

Johannesburg

2196

Tel: (011) 788 2000

Fax: (086) 459 2405

Mobile: 072 533 4399

e-mail: adam@gunnattorneys.co.za