



Independent Power Producer Office

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**CONFIDENTIAL AND
WITHOUT PREJUDICE**

ATTENTION: **Robyn Hugo**
rhugo@cer.org.za

Dear Sir/Madam

CENTRE FOR ENVIRONMENTAL RIGHTS' ACTION AGAINST THABAMETSI POWER COMPANY (PTY) LIMITED AND ACWA POWER KHANYISA THERMAL POWER STATION (RF) (PTY) LIMITED AS PREFERRED BIDDERS UNDER THE COAL BASELOAD IPP PROCUREMENT PROGRAMME

1. We refer to your latest letter dated 6 April 2017, the contents of which have been noted.
2. With the finalisation of the court proceedings¹, the Department is now in a position to respond to your letter.
3. Firstly, as correctly cited in your letter, the RFP provides an Anticipated Date for Commercial Close and Financial Close namely, 6 (six) months after announcement of Preferred Bidder. In terms of

¹ Earthlife Africa, Johannesburg v The Minister of Environmental Affairs and Others (Case number 65662/16)



Clause 6.1.6.3 of the RFP², the Department has, having regard to the applicable Project Development Plans and other relevant factors including the Department's readiness, allowed an extension for Commercial Close and Financial Close to both Preferred Bidders until 3 November 2017.

4. Secondly, as you may know, the Bid Responses received by the Department are confidential and in this regard we are unable to provide you with the information you have requested.
5. Aligned with the provisions of the RFP³ and the recommendations by the Department's Transaction Advisors, provisions of the Preferred Bidder Project Development Undertaking for each of the Preferred Bidders stipulate *inter alia* that the Preferred Bidder must have, at Commercial and Financial Close, all applicable permits, licences, approvals and consents including the Environmental Consent in respect of its Project. In the absence of these, the Project will not be able to achieve Commercial Close and Financial Close.
6. Furthermore, we note the outcome of the Thabametsi judgment and your request that the climate change impacts of all proposed coal baseload IPPs must be comprehensively assessed and considered. The Department's requirement, as you are aware, is for the Bidder to have an Environmental Consent. We are confident that the Department of Environmental Affairs, as the relevant regulatory authority, will consider the necessary in awarding the Environmental Consents of these and any other coal baseload project.

Yours faithfully

Karen Breytenbach

Head: IPP Office

Date: 02/06/2017.

² Part A - General Requirements Rules

³ Volume 2, Part 5 Preferred Bidder Documents