



NKANGALA DISTRICT MUNICIPALITY DISTRICKSMUNISIPALITEIT NKANGALA

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My Verw./My Ref.:
U Verw./Your Ref.:

**Skosana MM/17/4/AEL/MP312/14/20
CER 54.2RH/MMK
17/4/AEL/MP312/14/20**

23RD OCTOBER 2018

To: Centre for Environmental Rights NPC
2nd Floor, Springtime Studios,
1 Scott Road, Observatory,
Cape Town, South Africa
7925
Tel +27 21 447 1647
Fax +27 86 730 9098
E-mail: mkoyama@cer.org.za

To: Fasken Attorneys
Inanda Greens
54 Wierda Road West
Sandton
2196
Tel: +27 11 586 6038
Fax: +27 11 586 6138
Email: lbezuidenhoudt@faksen.com

**To: Department of Social Services
Environmental Management Unit
Nkangala District Municipality**
2A Walter Sisulu Street
Middelburg
1050
Tel: 013 249 20 2160
Email: nembilwim@nkangaladm.gov.za

Dear Sirs/Madame's.

RE: REQUEST FOR URGENT DIRECTIONS: PROVISIONAL AND SUPPLEMENTARY APPEAL BY GROUND WORKS AGAINST THE PROVISIONAL ATMOSPHERIC EMISSION LICENSE ISSUED BY ACWA POWER WITH REFERENCE NUMBER 17/4/AEL/MP312/14/20

In re: APPEAL IN TERMS OF SECTION 62 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 32 OF 2000 IN RESPECT OF THE TRANSFER OF PROVISIONAL ATMOSPHERIC EMISSION LICENSE FROM ANGLO OPERATIONS (PTY) LTD TO ACWA POWER KHANYISA THERMAL POWER STATION RF (PTY) LTD FOR THE PROPOSED INDEPENDENT POWER PRODUCER, NEAR EMALAHLENI, MPUMALANGA PROVINCE

1. I refer to the above matter and acknowledge receipt of letters dated 16th October and 22nd October 2018 from the Center for Environmental Rights, as well as letters dated 19th October 2018 and 23rd October 2018 from Faksen Attorneys.
2. The content of all four (04) letters mentioned above have been read and this letter is intended to address some of the issues raised therein. However I will not address each and every issue raised therein as I am not an Appeal Authority but a Registrar who is entrusted with case management of this matter .
3. Please note that the appeal was/is (supposed) to be lodged in terms of Section 62 of the Municipal Systems Act, thus the relevant appeal authority is the Executive Mayor. Nkangala District Municipality operates on a Mayoral Committee System and as such the Executive Mayor will have Her Members of the Mayoral Committee in attendance and assisting Her when the appeal or any interlocutory applications are being dealt with.
4. The matter is between ACWA Power and the Centre for Environmental Rights, with Nkangala District Municipality. Thus the opposition of the appeal if any it will either be from ACWA Power and/or Nkangala District Municipality, hence I have requested the parties to engage each other in an attempt to address such issues. I have noted with dismay that the parties are somehow not willing to engage each other but attempt to litigate their matters through letters, which does not assist the process in any way whatsoever.
5. The intention of calling the Pre-Appeal Hearing was simply to narrow the issues, prepare and sign a consolidated Pre-Appeal Hearing which would ease the burden on the Executive Mayor.
6. I have noted that there seems to be an argument on whether does Nkangala District Municipality have jurisdiction to hear the appeal, in which event holding a Pre- Appeal Hearing before dealing with the issue on jurisdiction would be premature.
7. It is therefore my advice that the issue of jurisdiction must be dealt with first before a Pre-Appeal Hearing could be entertained. Thus the parties are hereby directed to file their Heads of Arguments on the Jurisdiction of Nkangala District Municipality Appeal Authority as constituted in terms of Section 62 of the Municipal Systems Act.
8. The Applicant/Appellant is directed to file its Heads of Argument on or before Friday the 02nd November 2018 and the Respondent is directed to file its Heads of Argument on or before Monday the 12th November 2018.
9. The Appeal authority shall deliver its decision in writing on or before Friday the 23rd November 2018.

Kind regards.

A handwritten signature in black ink, consisting of a stylized 'M' followed by a large, circular flourish.

ML MAHLANGU
APPEALS REGISTRAR