

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case number:

In the matter between:

EARTHLIFE AFRICA NPC

First Applicant

**THE TRUSTEES FOR THE TIME BEING OF
GROUNDWORK TRUST**

Second Applicant

and

THE MINISTER OF ENVIRONMENTAL AFFAIRS

First Respondent

**CHIEF DIRECTOR: INTEGRATED
ENVIRONMENTAL AUTHORISATIONS,
DEPARTMENT OF ENVIRONMENTAL AFFAIRS**

Second Respondent

**THE DIRECTOR: APPEALS AND LEGAL REVIEW
DEPARTMENT OF ENVIRONMENTAL AFFAIRS**

Third Respondent

THABAMETSI POWER COMPANY (PTY) LIMITED

Fourth Respondent

RULE 16A NOTICE

KINDLY TAKE NOTICE that this application raises the following constitutional issues:

- 1 Whether the following decision is unlawful and invalid under the Promotion of Administrative Justice Act 3 of 2000, alternatively section 1(c) of the Constitution:
 - 1.1 The decision of the First Respondent, dated 30 January 2018, dismissing the First Applicant's fourth ground of appeal against the Second Respondent's decision, granting the environmental authorisation with reference number 14/12/16/3/3/3/40 for the establishment of a 1200 megawatt coal-fired power station near Lephalale, Limpopo (the

“**Thabametsi project**”) under the National Environmental Management Act 107 of 1998 (“**NEMA**”).

2 Whether the provisions of NEMA, read in light of sections 1(c) and 24 of the Constitution and international climate change law:

2.1 Require competent authorities who are considering applications for environmental authorisations to consider site-specific climate change impacts associated with proposed projects; and

2.2 Prohibit competent authorities from regarding the Integrated Resource Plan for Electricity 2010 – 2030, any other policy document, or any determination made by the Minister of Energy in terms of section 34 of the Electricity Regulation Act, 2006 as determinative of their decisions.

TAKE NOTICE FURTHER that any interested party may, with the written consent of all parties to these proceedings, given not later than 20 days after the filing of this notice, be admitted as *amicus curiae*, upon such terms and conditions as may be agreed upon in writing by the parties.

TAKE NOTICE FURTHER that the written consent referred to above shall be lodged with the registrar within 5 days of it having been granted and the *amicus curiae* shall comply with the times agreed upon for the lodging of written argument.

TAKE NOTICE FURTHER that the terms and conditions agreed upon may be amended by the court.

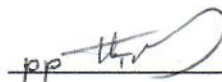
TAKE NOTICE FURTHER that if the interested party is unable to obtain written consent from the other parties, he or she may, within 5 days of the expiry of the 20 day period referred to above, apply to this court to be admitted as an amicus curiae in these proceedings. Such application shall-

- (a) briefly describe the interest of the amicus curiae in these proceedings;
- (b) clearly and succinctly set out the submissions which shall be advanced by the amicus curiae in the proceedings, the relevance thereof to these proceedings, and his or her reasons for believing that the submissions will assist the court and are different from the submissions of the other parties; and
- (c) be served upon all parties to the proceedings.

TAKE NOTICE FURTHER that any party to the proceedings who wishes to oppose an application to be admitted as an amicus curiae shall file an answering affidavit within 5 days of service of the application.

KINDLY PLACE A COPY OF THIS NOTICE ON THE NOTICE BOARD

DATED at **JOHANNESBURG** on this the 26TH day of March 2018.



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Ref: Rentia Kruyshaar/CER

TO:

**THE REGISTRAR OF THE ABOVE COURT
PRETORIA**

AND TO:

THE MINISTER OF ENVIRONMENTAL AFFAIRS

First Respondent
Environment House
73 Steve Biko
Arcadia
PRETORIA

AND TO:

**CHIEF DIRECTOR
INTEGRATED ENVIRONMENTAL, AUTHORISATIONS,
DEPARTMENT OF ENVIRONMENTAL AFFAIRS**
Second Respondent
Environment House
473 Steve Biko
Arcadia
PRETORIA

AND TO:

**THE DIRECTOR: APPEALS AND LEGAL REVIEW,
DEPARTMENT OF ENVIRONMENTAL AFFAIRS**
Third Respondent
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AND TO:

BAKER & MCKENZIE

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