

Background Information Document

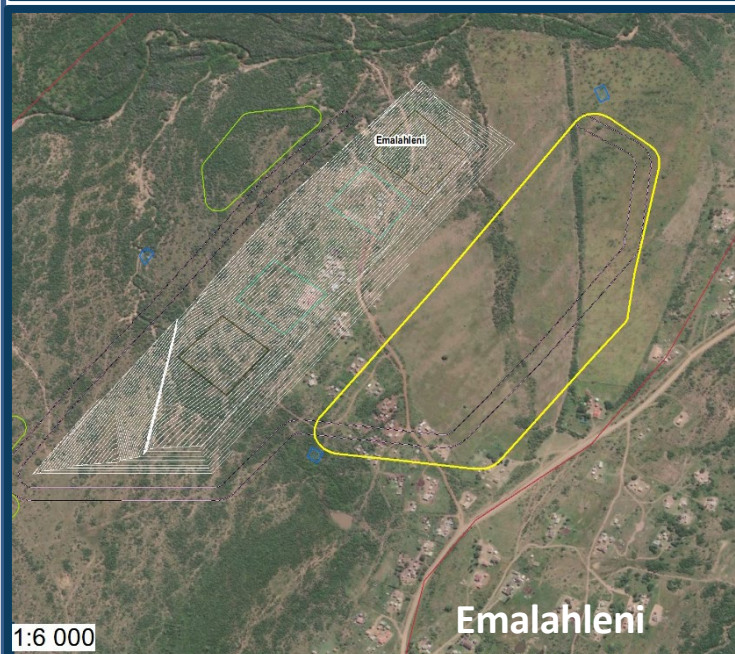
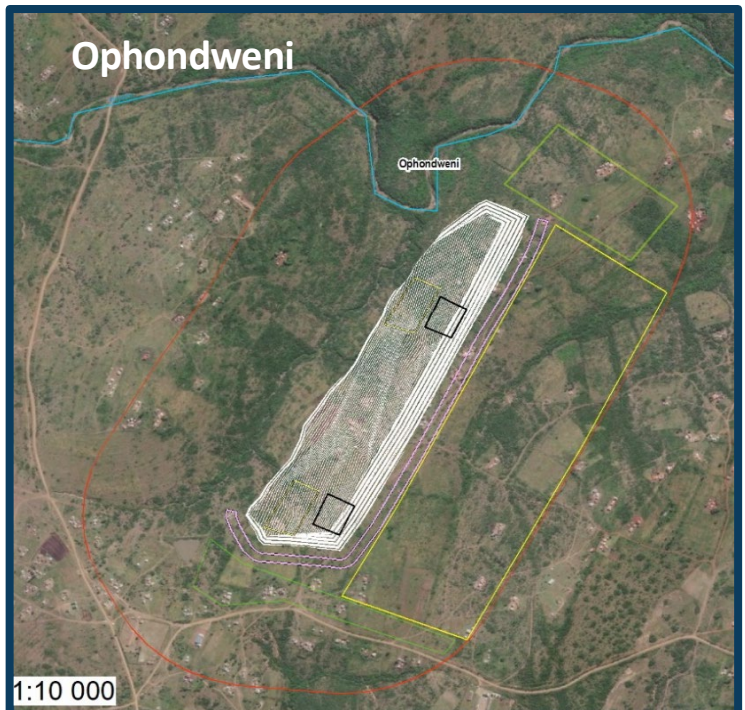
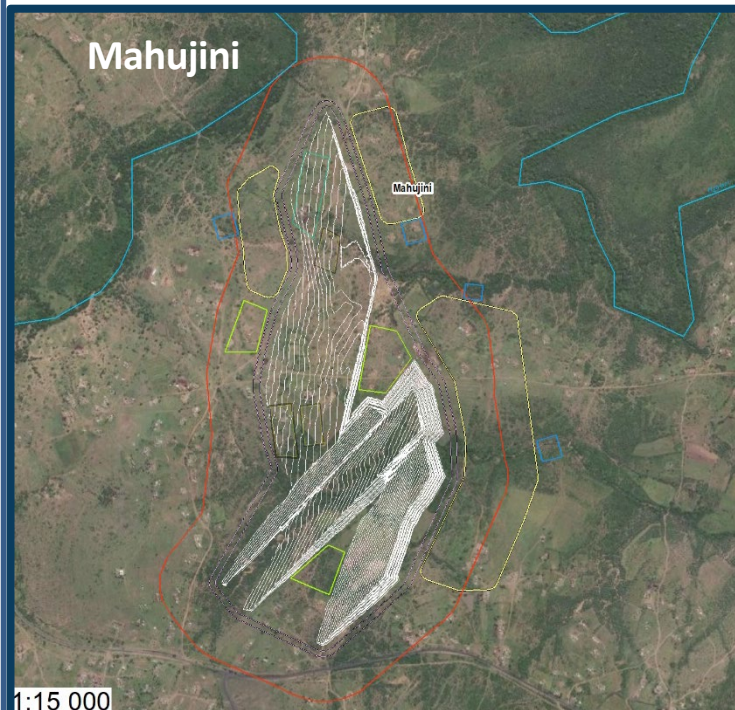
Appeal in respect of a Mining Right held by Tendele Mining with
DMRE Ref: KZN30/5/1/2/2/10041MR



Introduction to the project

Tendele Mining (Pty) Ltd, hereafter referred to as Tendele, owns and has been operating an open cast anthracite mine known as Somkhele Anthracite Mine (Somkhele) since 2006. The Mine is situated 23km north-west of Mtubatuba Town, Kwazulu-Natal, within the uMkhanyakude District Municipality and operates within the Mpukunyoni Community. Tendele commenced mining operations in 2007 at Somkhele in terms of numerous Mining Rights (MR) held by Tendele. 87% of all employment is from the local / hosting community.

On 26 October 2016, Tendele was granted a MR with reference number: KZN30/5/1/2/2/10041MR. This MR covered 222km². Tendele has since abandoned 92% of the area covered by the MR. The intended mining areas are now approximately 27km². The retained areas are located in Emalahleni, Ophondweni and Mahujini. The following maps show the location of the 3 retained areas –



Somkhele Locality Map



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, OpenStreetMap contributors, and the GIS User Community

A Review Application challenged the issuing of the Mining Right

Tendele applied for a Mining Right (MR) in 2014, this MR was issued in 2016 (KZN30/5/1/2/2/10041MR). The grant of the MR and the approval of its associated EMPr were challenged through an appeal process in terms of Section 96 of the Mineral and Petroleum Resources Development Act 28 of 2002 (MPRDA) and through subsequent court proceedings. On 4 May 2022, the Pretoria High Court handed down a judgment (Court Order) relating to the MR and the EMPr held by Tendele.

The Court Order states as follows –

“1. The Director General’s decision of 31 May 2016, in awarding the Mining Right to Tendele, and the Regional Manager’s decision of 26 October 2016, in approving Tendele’s EMPr, are hereby declared invalid. The decisions are not set aside [our emphasis].

2. The Minister’s decision of 15 June 2018 in dismissing the appeal against the grant of the Mining Right to Tendele and the Approval of Tendele’s EMPr is hereby declared invalid and is set aside.

3. The appeal is remitted back to the Minister for reconsideration in accordance with the findings of this judgement.

4. In reconsidering the appeal, and in addition to the findings of this judgement, the Minister is directed to consider:

(a) any information that the Applicants and Tendele wish to place before him for that purpose.

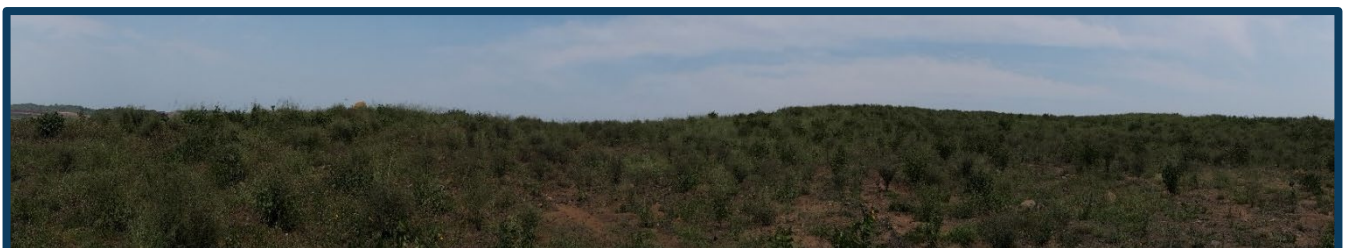
(b) any information, comments, and submissions from I&APs.

5. Tendele is directed to notify interested and affected parties of their entitlement to participate in the appeal process by publicising the contents of this widely.

6. Tendele is to ensure that public participation process to be conducted pursuant to the Minister’s determination of the appeal process, complies with the requirements of (Public Participation Guidelines in terms of the National Environmental Act, 1998 and (Chapter 6 of the Environmental Impact Assessment Regulations, 2014 as Published in Government Gazette No38282 GNR 982 of 4 December 2014.”

As is stated in the first paragraph of the Court Order, the MR and EMPr were not set aside by the Court. The decision of the Minister of Mineral Resources and Energy (DMRE Minister) to dismiss the appeal against the grant of the MR and EMPr was however set aside, and the Minister is obliged to reconsider the appeal.

In reconsidering the appeal, the Judge has directed the Minister to consider any information that the Mine wishes to place before him as well as any information and comments from I&APs. Since the issuance of Tendele’s MR in 2016, the Mine has undergone numerous consultation as well completed additional specialist studies. Based on the above court order, it is paramount that I&APs be notified of their entitlement to participate in the appeals process (the notification to be published widely) and be afforded the opportunity to provide public comments on the additional information (specialist studies) that have been undertaken since the original application in 2014. The Mine must ensure that public participation is conducted in terms of the EIA Regulations, read with the Public Participation Guidelines.



Purpose of this document

This Background Information Document (BID), is intended to provide background information about the process being undertaken for the development and provides:

- An overview of the project;
- An overview of the legislative context and an outline of the manner in which the EIA will be undertaken;
- An indication of how interested and affected parties (I&APs) may become involved in the project; and
- The EAP's contact details to whom I&APs may submit their issues or concerns regarding the project.

Project description

It is Tendele's intent to mine in the Areas known as Emalahleni, Ophondweni and Mahujini within Mpukunyoni.

The Areas will be mined by the same opencast mining methods that has been used since 2007. The project will involve establishing the following infrastructure in each area:

- Dedicated haul roads to the various opencast pits
- Pollution control and stormwater infrastructure
- Overburden Stockpiles
- Soil Stockpiles
- Fencing and security structures
- Remote contractor offices
- Temporary ablution facilities

Mining Methodology

The Opencast operation will use a roll-over method when possible, where continuous replacement of materials and rehabilitation takes place. At least 87% of the labour will be sourced from the hosting community - Mpukunyoni.

Coal Transportation

All Run of Mine (RoM) material will be transported via dedicated haul roads to existing processing infrastructure, and the majority of the transport will be supplied by local entrepreneurs.

Water Uses

There is no processing or potable water supply required for the mining areas as all of the processing and infrastructure will be contained within the existing operational area. The only water requirement will be for dust suppression. Water will be sourced from in-pit water and from pollution control dams. A water use Licence has been authorised for water use activities within Emalahleni, Ophondweni and Mahujini. Licence No.: 11/W23A/ABCGIJ/9751 issued on 9 July 2020

Mine Residue

The Mine residue created from the washing of the coal from the 3 pits will be placed within existing facilities. The Mine was issued with a Waste Management Licence KZN30/5/1/2/2/216MR on 29 October 2021.

The Process to be followed

The Judgment handed down prescribed that the process to be followed needs to fulfil the requirements of the Environmental Impact Assessment Regulations, 2014 as Published in Government Gazette No 38282 GNR 982 of 4 December 2014.



- Notice of project and Notice to public
- BID document provided with invitation to register as an interested and affected party
- Prepare Draft Scoping Report
- Public review of Scoping Report (30 Days)
- Public Meetings
- Submit Scoping Report to authority



- Compile EIA (EMPr) Report
- Public review of EIA Report (30 days)
- Public Meetings
- Final EIA Report submitted to the DMRE Minister
- Appeal decision taken by the Minister

The objectives of the Environmental Assessment Process are to:

- Identify relevant authorities and I&APs to engage in the Public Participation Process (PPP);
- Facilitate the dissemination of information to the relevant authorities and I&APs and provide them with an opportunity to raise issues or concerns related to the project;
- Confirm issues and environmental impacts;
- Confirm the significance of the environmental impacts identified;
- Describe and investigate alternatives that have been considered; and
- Confirm the feasible mitigation measures to address any significant impacts identified.

The above objectives are achieved through the evaluation of the activity, the undertaking of the PPP and the submission of the relevant information and documentation to the DMRE.

Public Participation

Public involvement is an integral part of the Scoping and EIA process and aims to include I&APs in the process by notifying them of the project and encouraging them to raise their issues and concerns. In order to ensure compliance with the Court Order and the provisions of the EIA Regulations which relate to public participation, below is a summary of the steps that will be taken by Tendele and its appointed EAP in order to ensure such compliance:

- Informing the DMRE of the intended process to be followed by Tendele
- Consultation with the Inkosi of the Mpukunyoni Community and the Mayor of Mtubatuba
- Consultation with Izinduna
- Consultation with Municipal Ward Councilors
- Consultation with all potential and registered I&APs

Notification

The following section details the manner in which stakeholders will be engaged with during the Scoping and EIA Process.

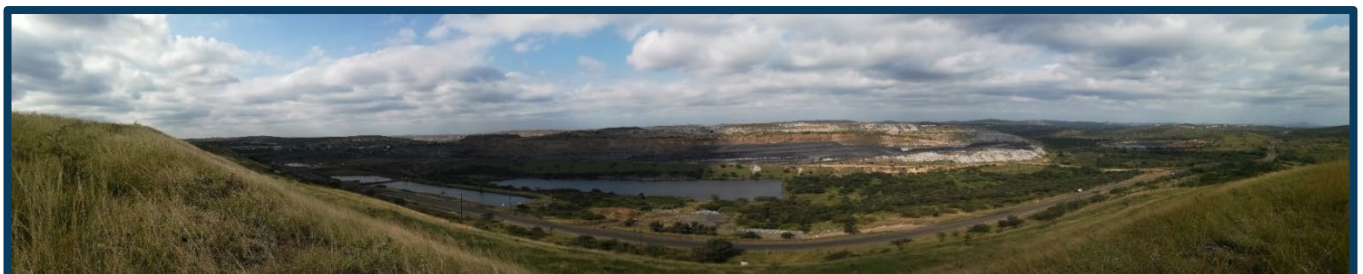
I&APs will be notified of the project and opportunities for interaction by means of:

- Advertisements in local newspapers and on local radio stations;
- Placement of notices on-site; site notices placed on conspicuous and easily accessible locations for the community for all three Mining Right Areas, such as Taxi Ranks, the office of the Mpukunyoni Traditional Council, Schools, Clinics and the Mtubatuba Library.
- E-Mail and text invitation to identified I&APs.
- Distribution of BID (this document) to identified I&APs. The BID document will be distributed by E-Mail and/or registered mail.
- Distributing notices and the BID at homesteads within a 1km radius to the mining pits
- Utilising existing traditional structures to disseminate information

Government departments and organs of state

The following government departments and organs of state will be consulted through the appeal process –

- Cooperative Governance and Traditional Affairs (COGTA)
- The Department of Forestry, Fisheries and the Environment (DFFE)
- Ezemvelo KZN Wildlife (EKZN)
- Mtubatuba Local Municipality
- uMkhanyakude District Municipality
- Department of Minerals and Energy
- Department of Water and Sanitation



Potential Impacts and Mitigation

The potential Impacts that will be included in the EIA assessment (and to be outlined in the draft scoping report available from 15 July 2022) will include impacts and mitigation from opencast mining on:

- Surface Water , Ground Water
- Air Quality, Noise, Visual, Social and Socio-economic
- Topography, Soils, Biodiversity, Aquatics
- Land use , and Land Capability

Mining has been conducted in the area since the 1880's and by Tendele since 2007, and the impacts of mining in the new areas are similar to the impacts which arose during the last 15 years mining.

This is not a new mine, but is an extension of the existing mine and thus current mitigation measures will apply. Additional mitigation measures will be informed by the studies conducted to reduce risks.



Environmental Studies Undertaken

Studies that formed part of the original 10041MR application in 2014

Hydrogeological Impact Assessment	Aquatic Assessment Report
Hydrological Impact Assessment	Heritage Impact Assessment
Biodiversity Impact Assessment	Social Gap Analysis
Wetland delineation and Impact Assessment	Preliminary haul road design report
Visual Impact Assessment	

New studies that have been undertaken since the granting of the 10041MR

Air Quality Impact Assessment	Follow up hydrogeological Study
Vegetation Impact Assessment	Area 4 and 5 floodline analysis
Corporate Climate Impact Assessment	Mahujini and Emalahleni haul road flood line analysis
Health Impact Assessment	Water balance update for the Somkhele Anthracite Mine
Noise Impact Assessment	Storm water management plan
Palaeontological Desktop Assessment	Wetland Assessment offset Plan for Ophondweni
Social Impact Assessment	Geotechnical Materials Report
Visual Impact Assessment	Decant Assessment for Somkhele
Vibration Impact Assessment	Conceptual Acid Mine Drainage Management Plan
Wetland Assessment for the Ophondweni Area	Civils Design Report
Aquatic Rehabilitation Plan for Riparian and instream habitats	Natural flow loss estimation for areas affected by SAM workings
Plant and Animal Search and rescue plan for future mining areas	Hydropedological Assessment
Geohydrological Model Update	Survey of burial grounds and graves
Heritage Impact Assessment	

Feedback

Feedback will be provided to I&APs via letters or direct communication, if requested, and in the Draft Scoping and EIA Reports. The Public Participation Plan (PPP) proposed for undertaking the Scoping and EIA has been designed to ensure that interaction with I&APs, during the appeal process, is focused yet comprehensive. The need for a public meeting or one-on-one meetings will be confirmed during the assessment process. All I&AP contributions will be reflected in the relevant reports. I&AP comment and feedback can be provided in different ways. These include:

- By direct written (facsimile, email, post,) and telephonic submission (SMS, voice note, phone calls);
- Discussions from one-on-one or public meetings; or
- Through community structures.

Interaction with I&APs and critical dates

I&APs are afforded the opportunity to understand the physical aspects associated with the project so they can meaningfully participate in and contribute to the Environmental Impact Assessment process. At this stage of the project, other than the BID, the following is proposed:

Initial public meetings:

- 23 July 2022 at the Ophondweni Hall at 09h00
- 24 July 2022 at Msiziwamakrestu Primary School (Emalahleni) at 09h00
- 6 August 2022 in Mahujini - time and venue will be confirmed

Draft Scoping Report:

- Will be made available for public review and comment from 15 July 2022.
- The Scoping Report will be discussed and presented during the meetings to be held on 23 and 24 July 2022 in Ophondweni and Emalahleni and on 6 August in Mahujini.

Following the Scoping phase, a draft EIA (EMPr) report will be circulated for public review and comment.

Submission to the DMRE

Following receipt of I&APs comments on the Scoping Report, the updated Scoping Report will be submitted to the Minister.

Following public participation and receipt of I&APs comments on the EIA (EMPr) Report along with the updated EIA (EMPr) Report (with the additional specialist studies and the original 2014 EIA/EMPr), will be submitted to the Honourable Minister of the DMRE. The Minister will then take a new decision in respect of the appeal that is before him. Once a decision has been made, all registered I&APs will be notified of the decision.

Should you require any additional information or have comments about the development please contact **Christopher Wright from Blackrock Environmental** at:

Telephone: 083 500 0205
Fax: 086-4131169
E Mail: chris@blackrock-env.co.za



Scoping and EIA for Appeal in respect of a Mining Right Interested and Affected party registration

Please complete this form to register as an Interested and Affected Party.

Forms can be handed in to your local Izinduna, at Somkhele Mine or emailed to chris@blackrock-env.co.za

Please feel free to attach additional pages of comment to this document if sufficient space has not been provided.

Name and Surname	
Postal Address / physical address	
Telephone Number	
Cell Phone Number	
Fax Number	
E-mail Address	
Organisation / Area	
Position within organisation/Department	

What is your interest in the project?

Do you have any comments or concerns about the project?

Do you require further information? If so, please indicate the type of information.

Other Contacts: If you know of anyone else who should be informed about this project, please could you provide their details in the table below (space has been provided for an additional four contacts, more can be added below if required):

Name and Surname	Organisation / Area	Postal / Email address	Contact Number

Thank you for taking time to comment on this project. Forms can be handed in to your local Izinduna or alternatively you simply sms your name to the contact number below or you can fax, mail or e- mail this document and any accompanying pages to

Tel: 083 5000 205
Fax: 086 4131 169
Email: chris@blackrock-env.co.za

