
Newcastle Cogeneration (Pty) Ltd. (in liquidation)
Master's Reference Number N174/2017

REPORT SUBMITTED BY THE JOINT LIQUIDATORS IN TERMS OF SECTION 402 OF THE COMPANIES ACT NO 61 OF 1973 AS AMENDED TO BE SUBMITTED AT A SECOND MEETING OF CREDITORS AND CONTRIBUTORIES TO BE HELD BEFORE THE MAGISTRATE NEWCASTLE, ON 1 APRIL 2019 AT 10H00.

ORDER OF THE COURT AND MEETINGS

Nature of Liquidation	Application in High Court of South Africa, Kwazulu-Natal Division, Pietermaritzburg
Date of Liquidation	05 June 2017
Date of Provisional Order	04 October 2017
Date of Final Order	19 February 2018
Provisional Appointees	Lebogane Grace Mpakati & Jeannine Elizabeth Saffy
Date of 1 st Meeting of Creditors	23 April 2018
Final Appointees	Lebogane Grace Mpakati & Jeannine Elizabeth Saffy

GENERAL AND STATUTORY INFORMATION

Registrar of Companies

The Company was duly registered with the Registrar of Companies under their reference number 2000/008136/07.

Registered Address

The registered address of the company was at 3 Karbochem Road, Newcastle, KwaZulu-Natal.

Directors

It appears from my investigations the following person was a director:

- Earl, Peter Richard Stephen

Auditors

The Auditors at date of liquidation would appear to have been Quantum Auditors Incorporated.

Business of the Company

The company carried on business in Newcastle as South Africa's first independent gas-fired power station.

SECTION 402(a)

Financial Statement of Assets and Liabilities

We have not been placed in possession of a Statement of Affairs as required in terms of Section 363 of the Companies Act No 61 of 1973 as amended. According to information available to us the following would appear to represent the financial position of the Company as at the date of liquidation:

ASSETS	Notes		
<u>Encumbered Assets</u>			
Plant & Equipment encumbered to IDC in terms of a General Notarial Covering Bond	1		3 705 000.00
<u>Unencumbered Assets</u>			
<u>LIABILITIES</u>			
<u>Secured Creditors</u>			
IDC by way of a General Notarial Covering Bond		16 181 785.29	
<u>Preferent Creditors</u>			
Employees		1 536 982.02	
SARS	2	Unknown	
<u>Concurrent Creditors</u>			
Trade Creditors		351 170.15	
Sub Total			3 705 000.00
Surplus/Deficit			14 364 937.46
TOTAL		18 069 937.46	18 069 937.46

NOTES:

1. The Liquidators will sell the movable assets after close of the Second Meeting of Creditors. The amount stated for the movable assets is according to a sworn valuation that was obtained.
2. We have not received a claim from the Receiver of Revenue at the time when this report was compiled.
3. The amounts represent the aggregate of the concurrent claims received by the liquidators to date.
4. These figures do not take into account any costs of administration and are subject to change and/or modification.

SECTION 402(b)

Causes of the Company's Failure

The inability to honour its obligations to creditors and its inability to pay its debts, contributed to the liquidation proceedings.

SECTION 402(c)

Report under Section 400(2)

At this stage we do not have anything to report under this heading, however, should any contraventions come to our attention, a report will be submitted to the Master of the High Court in regard to such contraventions.

SECTION 402(d)

Personal Liabilities of Directors or Officers

At this stage we are unable to comment on whether the former director or officer of the company can be held personally liable for the debts of the company. A report will be submitted, should it become necessary.

SECTION 402(e)

Legal Proceedings

As far as we are aware there are no legal proceedings pending by or against the Company, except for normal debt collection.

SECTION 402(f)

Further Enquiry

The estate does not have sufficient free residue funds at its disposal to fund any further Enquiry in terms of the provisions of Section 415 or 417 of the Act. Should any creditor wish to wish to furnish us with instructions/directions in this regard, they are invited to indemnify us and proceed in terms of the provision of Section 32(1) of the Insolvency Act should they so wish.

SECTION 402(g)

Books and Records

Certain books and records relating to the affairs of the Company have been handed to us.

SECTION 402(h)

Progress and Prospects of Liquidation

Upon our appointment as Provisional Liquidators we immediately investigated the affairs of the company and took possession of the assets.

SECTION 402(i)

Matters Requiring Further Directions of Creditors and Contributories

Such directions as we desire, and sanction of the actions taken by the Provisional Liquidators and Liquidators to date, are contained in the Resolutions to be submitted for consideration and adoption, are attached hereto.

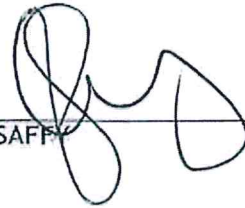
GENERAL

There is a definite danger of contribution.

DATED AT ROODEPOORT ON THIS 26th DAY OF MARCH 2019.



LG MPAKATI



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RESOLUTIONS SUBMITTED AND ADOPTED AT THE SECOND MEETING OF CREDITORS HELD BEFORE THE MAGISTRATE, NEWCASTLE, ON 1 APRIL 2019, AT 10H00.

RESOLVED THAT:

- 1 The report of Liquidator or Joint Liquidators, as the case may be, hereinafter referred to as (the Liquidator"), as submitted be received and adopted and all his actions referred to therein be and are hereby confirmed, ratified and approved.
- 2 All actions of whatsoever nature heretofore taken by the Provisional Liquidator and/or Liquidator be and are hereby confirmed, ratified and approved.
- 3 The Liquidator be granted the authority and is vested with all the powers mentioned in Section 386(4)(a) - (i) of the Companies Act No 61 of 1973, as amended, such powers to be exercised at his sole and absolute discretion.
- 4 The Liquidator be and is hereby authorised in his sole and absolute discretion to:
 - 4.1 Take legal advice on any question of law affecting the administration and distribution of the company;
 - 4.2 Institute or defend on behalf of the company any action or other legal proceedings of a civil nature for the recovery of monies due to the company or otherwise and subject to the provisions of any law relating to criminal procedure, institute any criminal proceedings;
 - 4.3 Hold any enquiry into the affairs of the company and/or any matter relating thereto;
 - 4.4 Investigate and institute legal proceedings for the recovery of any voidable or undue preferences, voidable dispositions of property or any other impeachable transactions of whatsoever nature and to abandon same at any time;
 - 4.5 Write up the books of the company as may be required, and if necessary, to produce a balance sheet, audited or not, as at the date of liquidation, either for the purpose of investigating the affairs of the company, establishing the claims of creditors, or any other purpose.
- 5 The Liquidator be and is hereby authorised in his sole and absolute discretion to employ and engage the services of attorneys and/or counsel (senior and/or junior) and/or accountants and/or bookkeepers and/or any employee of the insolvent and/or recording agents and/or any other person who in the sole discretion of the Liquidator may be of assistance in the winding-up

- of the company in relation to any matter referred to in 4 above and further to pay all the costs thereof of whatsoever nature out of the estate as costs incurred in the liquidation.
- 6 The Liquidator be and is hereby authorised to collection any debts due to the company and for the purpose thereof to sell or compound or compromise any of these debts for such sum and upon such terms and conditions as he in his sole discretion may deem fit, and to accept any part of the debt in settlement thereof, and to grant an extension of time for the payment of any such debt, and to abandon any debt which he in his sole discretion may deem to be irrecoverable.
 - 7 The Liquidator be and is hereby authorised to dispose of any movable and immovable property of the company, whether in his possession or under his control now or to come into his possession or under his control in the future by public auction, private treaty or public tender upon such terms and conditions as he in his sole and absolute discretion shall determine and to abandon any such assets for which he can find no purchaser or abandon them to a secured creditor at the value placed thereon by such creditor or at such value as is agreed upon by the Liquidator and the creditor if such creditor's claim is secured by such assets and to sign all such documents as may be necessary to give effect to such disposition.
 - 8 The Liquidator be and is hereby authorised and empowered in his sole discretion to compromise and admit any claim against the company of whatsoever nature and howsoever arising and whether disputed or not and whether actual, contingent, prospective, conditional, unconditional, assessed, unassessed, liquidated or unliquidated as a liquidated claim in terms of Section 78(3) of the Insolvency Act No 24 of 1936 as amended, read with Section 339 of the Companies Act No 61 of 1973, as amended, at such amount as may be agreed upon by the Liquidator, provided that proof thereof has been tendered at a meeting of creditors.
 - 9 The Liquidator be and is hereby authorised to make application for the destruction of books and records of the estate six months after the confirmation of the Final Liquidation and Distribution Account.
 - 10 The Liquidator be and is hereby authorised to perform any act or exercise any power for which he is not expressly required by the Companies Act No 61 of 1973, as amended, to obtain the leave of the Court.
 - 11 The Liquidator be and is hereby authorised to submit to the determination of arbitrators any dispute concerning the company or any claim or demand by or upon the company.
 - 12 The Liquidator be and is hereby authorised to carry on or discontinue any part of the business of the company insofar as may be necessary for the beneficial winding-up thereof.
 - 13 The Liquidator be and is hereby authorised to exercise *mutatis mutandis* the powers conferred upon a Liquidator by Section 35 (uncompleted acquisition of immovable property before liquidation) and 37 (effect of liquidation upon a lease) of the Insolvency Act No 24 of 1936, as amended, read with Section 339 of the Companies Act No 61 of 1973, as amended.
 - 14 The further administration of the affairs of the company be left entirely in the hands and at the discretion of the Liquidator.



q.q. CREDITORS

q.q. DIRECTORS /
SHAREHOLDERS

PRESIDING OFFICER