IN THE HIGH COURT OF SOUTH AFRICA
(LIMPOPO DIVISION, POLOKWANE)

CASE NO: 5361/2021

In the matter between:

MINING AND ENVIRONMENTAL JUSTICE COMMUNITY NETWORK OF SOUTH AFRICA 1st Applicant

GOEDETROUW 366 LR CONCERNED RESIDENTS 2nd Applicant

LEWANENG TRADITIONAL COMMUNITY REPRESENTATIVE BODY (KGORO) 3rd Applicant

GA-NGOEPE TRADITIONAL COMMUNITY REPRESENATIVE BODY (KGORO) 4th Applicant

and

WATERBERG JV RESOURCES 1st Respondent

THE REGIONAL MANAGER, LIMPOPO REGION, DEPARTMENT OF MINERAL RESOURCES AND ENERGY 2nd Respondent

THE DIRECTOR-GENERAL, DEPARTMENT OF MINERAL RESOURCES AND ENERGY 3rd Respondent

MINISTER OF MINERAL RESOURCES

AND ENERGY	4th Respondent
MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	5thRespondent
CHIEF DIRECTOR, LIMPOPO OFFICE OF THE DEPARTMENT OF AGRICULTURE, LANDREFORM AND RURAL DEVELOPMENT	6thRespondent
KGATLU REPRESENTATIVE STRUCTURES (GENERAL COUNCIL; BOARD OF DIRECTORS; KGATLU MINING FORUM)	7thRespondent
LEWANENG CPA	8thRespondent
BAHANANWA TRADITIONAL COUNCIL	9thRespondent
BAKONE BA MATLALA-A-THABA TRADITIONAL COUNCIL	10thRespondent
BLOUBERG LOCAL MUNICIPALITY	11thRespondent
EARLY DAWN CLUB COMMUNITY EXECUTIVE COMMITTEE	12thRespondent

NOTICE OF MOTION

KINDLY TO TAKE NOTICE that the applicants intend to bring an application in the above Honourable Court on **Tuesday, 10th August 2021** at **10h00** or so soon thereafter as the matter may be heard, for an order in the following terms:

1. That this matter be heard as one of urgency in terms of Rule 6(12) of the Uniform Rules of this Honourable Court and condoning non-compliance with the prescribed forms and time limits for service of the documents as provided for in the rules.

2. Thefurthermore, that the First Respondent is interdicted and restraint from conducting any mining activities and mining-related activities (including any activities preparatory, ancillary or incidental to mining, including without limitation any fencing or fence removal, cutting or clearing of vegetation, any establishment of roads, any construction or installation of buildings, infrastructure or equipment and any drilling, excavation, digging, removal of soil, ore or any mineral) unless and until, as contemplated in terms of section 25(2)(d) of the Minerals and Petroleum Resources Development Act (MPRDA), the following have, cumulatively, taken place –

    2.1. The final determination of the following review application, appeals and administrative actions –

        2.1.1. The review application launched by the community of Kgatlu in this division under case number 22651/21 against refusal by the Minister of Environment, Forestry and Fisheries tc condone late filing of an internal statutory

appeal in terms of section 43(7) of the National Environment and Management Act (NEMA) that the community lodged against issuing of the NEMA environmental authorization (EA) in favour of the First Respondent by the Second Respondent.

2.1.2. The appeals in terms section 96(1) of the Minerals and Petroleum Resources Act (MPRDA) that some of the members of Second, Third and Fourth Applicants have lodged against granting of mining right to the First Respondent.

2.1.3. An administrative action invoked by a member of the Second Applicant in terms of section 96(2) of the MPRDA requesting the Fourth Respondent to suspend operation of the mining right pending his finalization of the appeal.

2.1.4. Exhaustion of the statutory procedures in terms of section 54(7) of the MPRDA that the Third Respondent has invoked by way of a written notice to the Second Respondent and which the Second and Fourth Applicants have declared a common cause with to apply also in respect of Goudetrouw 366 LR and Early Dawn 361 LR properties.

2.2. The following authorizations, licenses, permits, permissions, consents and notices in place:

2.2.1. A valid mining right, in the context of appeals/reviews against its granting being finalized and in respect of which the period of commencement has been duly extended in terms of section 25(2)(b) of the MPRDA;

2.2.2. An Integrated Water Use License (IWUL) being obtained, and the issuing thereof being appealed and/or reviewed.

2.2.3. Permits from the South African Heritage Resources Agency (SAHRA) in terms of section 35 or 36 of the National Heritage Resources Act (NHRA) being obtained to disturb archaeological features and graves. Alternatively, a written exemption from obtaining these permits being granted by the Department of Mineral Resources and Energy (DMRE) on the basis of final comment issued in terms of section 38(4) of the NHRA by the SAHRA.

2.2.4. Written permission of both the Minister of Mineral Resources and Energy and the Minister of Environment, Forests and Fisheries given in terms of section 48(1)(b) of the NEM:PAA in that the Goudetrouw 366 LR and Ketting 368 LR farms are sensitive environment and cultural landscapes by virtue falling within the Vhembe Biosphere Reserve Critical Biodiversity Area and at Makgabeng Plateau and buffer zone noting that the First Respondent' own consultant (L.D. Nyengere Solutions (Pty) Ltd) has

recommended that surface infrastructure should not be placed at the Goedetrouw 366 LR and that the Rock Art Research Institute (RARI) has nominated the properties at Makgabeng Plateau as a National Heritage Site and that such properties include Ketting 368 LR and Early Dawn 361 LR farms. Alternatively, that the First Respondent enters into biodiversity and cultural off-set agreements with the Applicants.

2.2.5. Obtaining of consents of landowners and lawful occupiers to change use of the land from agricultural to mining land use by engaging the Applicants to facilitate submission to the Blouberg Local Municipality a change of land use application in terms of section 26 of the Spatial Planning and Land Use Management (SPLUMA) read with Regulation 18 of the SPLUMA Regulations by the landowners on the basis of community resolutions having being obtained from majority lawful occupiers as informal and communal land rights holders in terms of the Interim Protection of Informal Land Rights Act (IPILRA).

2.2.6. Any appeal against any decision of the Municipality Planning Tribunal regarding the change of land use in respect of the Goedetrouw 336 LR and Ketting 368 LR properties, as contemplated in section 52 of SPLUMA, has finally been disposed of in the First Respondent's favour.

2.2.7. Notices in terms of the MPRDA Section 5A(c), consultation in terms of MPRDA Section 54 and consent in terms of the IPILRA Section 2(1) to gain access to and to occupy the Goedetrouw 366 LR, Ketting 368 LR and Early Dawn 361 LR farms. Such notices must include state actors (Department of Minerals and Energy; Department of Agriculture, Land Reform and Rural Development).

2.2.8. A surface lease agreement, supervised by a designated official of the Department of Agriculture, Land Reform and Rural Development (DALRRD), concluded with the Minister of the department in concurrence with informal land rights holders in terms of section 2(4) of the IPILRA.

2.2.9. The fulfilment of all terms and conditions laid down in the mining right, environmental authorizations and water use license, as contemplated under the MPRDA Section 25(2)(d).

3. Granting the Applicants leave to apply for an extension of the interdict, on the same papers, duly supplemented, pending the final determination of the review application and appeals, pending or to be commenced, against each component of the administration action purporting to authorize the mining activities. That a mandament van spolie is granted ordering the First Respondent to restore possession to the Second and Third Applicants of the spoiled area, spoiled by the First Respondent from the Second and Third Applicants, as defined on the sketch

plan marked **"MGM10"** annexed hereto, and the Second and Third Applicants' rights in respect of the spoliated area, to the Second and Third Applicants.

3. That a mandament van spolie is granted ordering the First Respondent to restorepossession to the Second and Third Applicants of the spoiled area, spoiled by the FirstRespondent from the Second and Third Applicants, as defined on the sketch plan marked**"MGM 10"** annexed hereto, and the Second and Third Applicants' rights in respect of the spoliated area, to the Second andThird Applicants.

4. An order in terms of section 32(3)(a) of the National Environment Management Act, No 107 of 1998 (NEMA), that the First Respondent and Second Respondent, together with those of the other respondents who may oppose the application are ordered to pay the costs on the scale as between attorney and own client any person or persons entitled to practice as advocate or attorney in the Republic of South Africa who provided free legal assistance or representation to the Applicants in the preparation for or conduct of the proceedings, jointly and severally, the one paying the others to be absolved. The costs include the costs occasioned by the employment of two Counsels.

5. It is prayed that, in terms of the precedent set in the *Biowatch* judgment and section 32(2) of the NEMA, that the Applicants are not held liable for any costs arising from this Application as the Applicants are instituting these proceedings to assert constitutional rights, in the public interest and out of *bona fide* concern of and in the protection of the environment.

6. That the applicants be granted leave toserve this application by hand and/or email.

7. Further and /or alternative relief

FURTHER TAKE NOTICE that the founding affidavit of **MARGARET GHOGHA MOLOMO** together with annexures and confirmatory affidavits of **JOSEPH MANAMELA, SIMON MANAMELA, ARIOS RAMOROKA and NARESENOSHA and AUBREY LANGA** will be used in support of this application.

TAKE NOTICE FURTHER that the Applicants have appointed **Nyoffu Attorneys** at which it will accept notice and service of all process in these proceedings as set out herein below.

TAKE NOTICE FURTHER that if you intend opposing this application you are required:

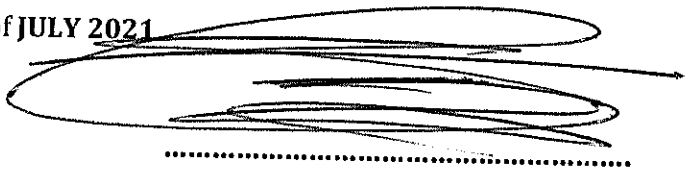
(a) To notify the Applicants' Attorney in writing or telephonically or by email on or before **02nd August 2021** at **17h00** and to appoint in suchnotification an address referred to in rule 6(5)(b) at which you will accept noticeand service of all documents in these proceedings (the applicants request that you consent to service via email).

(b) To file your answering affidavit, if any; by **04th AUGUST 2021**at **17h00.**

If the above timelines are adhered to, the applicants will serve and file their replying affidavit on **06th AUGUST 2021** at **17h00.**

KINDLY ENROL THE MATTER FOR HEARING ACCORDINGLY.

Dated at Mokopane on this **29th** day of **JULY 2021**



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(sgd) SHELENE JACOB NYOFFU
Attorney with right of appearance in terms
Of Section 4(2) of Act 62 of 1995
Nyoffu Attorneys
Attorneys for the Applicants
70 Thabo Mbeki Street
Office No 5, FOSCHINI BUILDING
MOKOPANE
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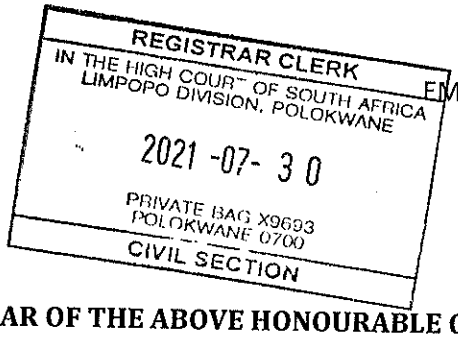
TEL: 015 491 1196/ 076 352 8590
EMAIL: sjnyoffu@gmail.com
Email: info@nyoffu-attorneys.co.za
C/O Ramusi Attorneys
19d Thabo Mbeki Street
Polokwane
EMAIL: admin@ramusiattorneys.co.za



TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT

POLOKWANE

AND TO: **WATERBERG JV RESOURCES (PTY) LTD**
First Respondent
1 ST Floor, Unit 1
Rosebank Terrace
25 Sturdee Avenue
Rosebank
Johannesburg

(SERVICE BY EMAIL)

Email: mmgudlwa@platinumgroupmetals.co.za

allan.reid@cdhlegal.com

AND TO:
Second Respondent
The Regional Manager, Limpopo Region, Department Of Mineral Resources and Energy
Dmre Building, 101 Dorp Street
Polokwane
0699
Tel: (015) 287 4700
Fax: 086 608 2273
Emai: Azhwihangwisi.Molaudzi@Dmre.Gov.Za
Tebogo.Mangaba@Dmre.Gov.Za
C/O The State Attorney
Fermic Building, 65a Landros Mare' Street
Polokwane
Tel: (015) 291 6180
Email: Mchunene@Justice.Gov.Za

(Service by Hand)

(Service by email)

AND TO:
Third Respondent
The Director-General, Department Of Mineral Resources and Energy
Trevenna Campus. Building 2C.
C/r Meitjies& Francis Baard Street
Pretoria
Tel: (012) 444 3000
Email: samradonline@dmre.gov.za
pieter.alberts@dmre.gov.za
thabo.mokoena@dmre.gov.za
C/o **The State Attorney**
Old Mutual Centre, 8th Floor
167 Andries Street
Pretoria, 0001
Tel: (012) 300 1577
Email: StateAttorneyPretoria@justice.gov.za

(Service by email)

AND TO:
Fourth Respondent
Minister of Mineral Resources and Energy
Trevenna Campus Building 2C.
C/r Meitjies & amp; Francis Baard Street
Pretoria

Tel: (012) 444 3000
Email: samradonline@dmre.gov.za
pieter.alberts@dmre.gov.za
vuyelwa.siyeka@dmre.gov.za
C/O The State Attorney
Old Mutual Centre, 8th Floor
167 Andries Street
Pretoria, 0001
Tel: (012) 300 1577
Email: StateAttorneyPretoria@justice.gov.za

(Service by email)

And To:
Fifth Respondent
Minister of Agriculture, Land Reform and Rural Development
20 Agriculture Place, Block D, Floor 1
Cnr Steve Biko and Soutspanberg
Pretoria
Tel: (011) 319 6000
Email: P.A. Minister@daff.gov.za
Old Mutual Centre, 8 th Floor
167 Andries Street
Pretoria, 0001
Tel: (012) 300 1577
Email: StateAttorneyPretoria@justice.gov.za

(Service by email)

And To:
Sixth Respondent
Chief Director, Limpopo Office of the Department of Agriculture, Land Reform and Rural Development
Polokwane
C/o The State Attorney
Fermic Building, 65A Landros Mare' Street
Polokwane
Tel: (015) 291 6180
Email: mchunene@justice.gov.za

(Service by email)

And To:
Seventh Respondent
Kgatlu Representative Structures (General Council; Board of Directors: Kgatlu Mining Forum)
Kgatlu Village

(Service by Email)

Email: Mikem,Chosi@Gmail.Com
Manamelam@Openserve.Co.Za
Manamelam@Openserve.Co.Za
S.Manamela@Mweb.Co.Za

And To:
Eighth Respondent
Lewaneng CPA
Lewaneng village

(Service by email)

And To:
Ninth Respondent
Bahananwa Traditional Council
Moshate

(Service by email)

And To:
Tenth Respondent
Bakone Ba Matlala-A-Thaba Traditional Council
Matlala

(Service by email)

And To:
Eleventh Respondent
Blouberg Local Municipality
Senwabaranwa
Email:

(Service by Email)

And To:
Twelfth Respondent
Early Dawn Club Community
Executive Committee
Email:

(Service by email)

IN THE HIGH COURT OF SOUTH AFRICA

(LIMPOPO DIVISION, POLOKWANE)

CASE NO: _____/2021

In the matter between:

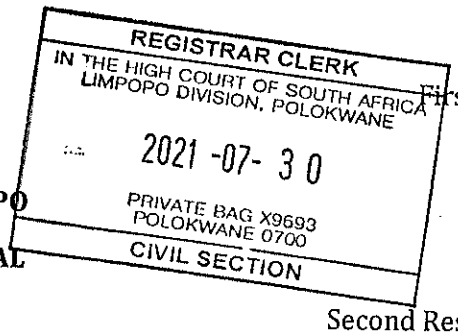
MINING AND ENVIRONMENTAL JUSTICE COMMUNITY NETWORK OF SOUTH AFRICA First Applicant

GOEDETROUW 366 LR CONCERNED RESIDENTS Second Applicant

LEWANENG TRADITIONAL COMMUNITY REPRESENTATIVE BODY (KGORO) Third Applicant

GA-NGOEPE TRADITIONAL COMMUNITY REPRESENATIVE BODY(KGORO) Fourth Applicant

and



WATERBERG JV RESOURCES First Respondent

THE REGIONAL MANAGER, LIMPOPO REGION, DEPARTMENT OF MINERAL RESOURCES AND ENERGY Second Respondent

THE DIRECTOR-GENERAL, DEPARTMENT OF MINERAL RESOURCES AND ENERGY Third Respondent

MINISTER OF MINERAL RESOURCES

PM

AND ENERGY	Fourth Respondent
MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Fifth Respondent
CHIEF DIRECTOR, LIMPOPO OFFICE OF THE DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Sixth Respondent
KGATLU REPRESENTATIVE STRUCTURES (GENERAL COUNCIL; BOARD OF DIRECTORS; KGATLU MINING FORUM)	Seventh Respondent
LEWANENG CPA	Eighth Respondent
BAHANANWA TRADITIONAL COUNCIL	Ninth Respondent
BAKONE BA MATLALA-A-THABA TRADITIONAL COUNCIL	Tenth Respondent
BLOUBERG LOCAL MUNICIPALITY	Eleventh Respondent
EARLY DAWN CLUB COMMUNITY EXECUTIVE COMMITTEE	Twelfth Respondent

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FOUNDING AFFIDAVIT

I, the undersigned:

MARGARET GHOGHA MOLOMO

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declare under oath and say that:

1. I am an adult female and the Chairperson of the Mining and Environmental Justice Community Network of South Africa. I am duly authorized to depose of this founding affidavit on behalf of the Applicants by virtue of a resolution marked and attached as annexure "**MGM 1**".

2. The facts contained herein are. unless the context indicates otherwise, within my personal knowledge and belief, and both true and correct. Where I make legal submissions, I do so on the strength of the legal advice given to me by my legal representatives.

THE PARTIES TO THIS APPLICATION

2. I have already identified myself in paragraph 1 above and therefore I will notburden this Honourable Court with unnecessary repetition.

3. The First Applicant is the **MINING AND ENVIRONMENTAL JUSTICE COMMUNITY NETWORK OF SOUTH AFRICA (MEJCON-SA).** It is a network of communities, community-based organisations and community members whose environmental and human rights are affected directly or indirectly by mining and mining-related activities, MEJCON brings this application by virtue of having a direct and substantial interest in the grant of a mining right to the First Respondent at an area in respect of which no environmental author:zation and mining right ought to have not been

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granted unless and until the directly affected individuals and communities are objectively satisfied that the impact of mining on all aspects of the environment are mitigated to acceptable levels. MEJCON-SA has since 2018 joined forces with the directly affected individuals and communities in common pursuit of mining and environmental justice, by having assisted the communities to object to the grant of mining right at the culturally and environmentally sensitive landscape.

4. The Second Applicant is an association of residents of **KGATLU VILLAGE**located at **Goedetrouw 366 LR farm** and thus going by the name **Goedetrouw 366 LR Concerned Residents.** The residents are concerned about the lack of transparency regarding the engagement between the Kgatlu Community Representative Structures led by the so-called General Council and the WJV, regarding the terms of access to, use, and occupation of the Goedetrouw 366 LR grazing camp. The residents have informal and communal land rights and direct and substantial interest in mining and mining-related activities at the camp by WJV, given potential notional and physical loss or damages commonly associated with mining operations.

5. The Third Applicant is an association of residents of **LEWANENG VILLAGE**located at Ketting 366 LR. The Applicants have a direct and substantial interest in activities of WJV by virtue of having lodged a statutory appeal against the granting of the mining right and invoked Section 54 process, which the Second and Fourth Applicants confirm. A section 54 process was invoked in order to assert and vindicate informal and communal land rights of the residents of Lewaneng village, in the context that these are undermined by WJV.

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6. The Fourth Applicant is an association of members of **GA-NGOEPE VILLAGE**located at Early Dawn 361 LR farm. The Applicants have a direct and substantial interest in activities of WJV by virtue of having lodged a statutory appeal against the granting of the mining right and declare common cause with the Section 54 process invoked by the Third Respondent. The unlawful commencement thus prejudices the Fourth Applicant as it undermines the constitutional rule of law and violates their section 24 of the Constitution environmental rights. The commencement prior to the First Respondent having dealt with the Applicant's compensation dispute emanating from the prospecting phase would undermine the compensation claims and the Applicant's ability to negotiate from a position of strength. This ill-conceived commencement does not only puts sustainable development of the project at serious risk but also risks the potential social and political stability of the area.

7. The First Respondent is **WATERBERG JV RESOURCES PTY (LTD),**a company incorporated in accordance with the Company Laws of South Africa with its registered address being 1 ST Floor, Unit 1 Rosebank, Terrace 25 Sturdee Avenue, RosebankJohannesburg,GautengProvince 219,Email: mmgudlwa@platinumgroupmetals.co.za,which has a mining right in respect of properties that include those informally and communally owned by communities of Ga-Ngoepe (located at Early Dawn 361 LR), Kgatlu (located at Goedetrouw366 LR) and Lewaneng (located at Ketting 368 LR). The respondent is cited by virtue of having violated the Applicants' constitutional land, cultural, environmental, and administrative rights given effect by the IPILRA, NHRA, NEMA, PAJA, MPRDA, and common law cumulatively as envisaged in terms of the MPRDA Section 25(2)(d). Plainly put, the First Respondent's conduct is prohibited, unlawful, and illegal as will

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be conclusively demonstrated hereunder. Given its undermining statutory prohibitions, relief in the form of two common law remedies are now sought against the respondent.

8. The Second Respondent is the **REGIONAL MANAGER, LIMPOPO REGION OF THE DEPARTMENT OF MINERAL RESOURCES AND ENERGY ("DMRE")**, cited herein in such capacity care of State Attorney situated at Fermic Building, 65A Landros Mare Street, Polokwane. Email address **mchuene@justice.gov.za**. The respondent is cited by virtue of having consistently failed to respond within the 14 days period set out in Section 54 mechanism. In particular, the Second Respondent has failed to stop the First Respondent from continuing with the deprivation in respect of the Section 54 process already invoked. A compelling order relief is sought against the respondent.

9. The Third Respondent is the **MINISTER OF MINERAL RESOURCES AND ENERGY ("DMRE")**, Honourable Minister GwedeMantashe, care of the State Attorney at Old Mutual Centre, 8th Floor, 167 Andries Street, Pretoria,0001, Gauteng Province. Email address **StateAttorneyPretoria@justice.gov.za**,who is the appeal authority for the appeals lodged against granting of the mining right. The respondent is cited by virtue of having direct and substantial interest in the matter, in that he is in these appeals requested in terms of the MPRDA Section 96(2) to suspend the mining right pending finalization of the appeal. Until and unless the respondent has taken a decision to suspend the right, the First Respondent is not entitled to commence with mining and mining-related activities.

10. The Fourth Respondent is the **DIRECTOR GENERAL OF THE DEPARTMENT OF MINERAL RESOURCES AND ENERGY (DMRE)** and the administrative head of the

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department. The respondent is cited by virtue of having a direct and substantial interest in the matter in that his intervention was sought when the Second Respondent was mismanaging the Section 54 mechanism. No relief is sought against the respondent.

11. The Fifth Respondent is the **MINISTER OF AGRICULTURE, LAND REFORM, AND RURAL DEVELOPMENT,** Honourable Minister ThokoDidiza, care of the State Attorney at Old Mutual Centre, 8th Floor, 167 Andries Street, Pretoria,0001, Gauteng Province. Email address**StateAttorneyPretoria@justice.gov.za** who is the political head of the department. The respondent is cited by virtue of being a nominal owner and trustee in respect of all land properties that fell under the Lebowa self-governing territory. The respondent has a direct and substantial interest in the matter regarding his constitutional duty to protect informal and communal land rights against unlawful deprivation. No relief is sought against the respondent.

12. The Sixth Respondent is the **CHIEF DIRECTOR OF THE LIMPOPO DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT**(DALRRD) and administrative head of the office under delegation of the Director-General. The respondent is cited by virtue of having direct and substantial interest in the matter flowing from his official having in November 2013 advised Mr MliboMgudlwa of WJV about the applicability of IPILRA and the SLLDP to the land. No relief is sought against the respondent.

13. The Seventh Respondent is **KGATLU REPRESENTATIVE STRUCTURE**, which purports to have lawful authority to consent to the mine development and to enter

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into a surface lease agreement with the First Respondent. Accordingly, the respondent is cited for having a direct and substantial interest in this matter. No relief is sought against the respondent.

14. The Eighth Respondent is **LEWANENG COMMUNITY REPRESENTATIVE STRUCTURE CALLING ITSELF COMMUNITY PROPERTY ASSOCIATION (CPA)**, which purports to have lawful authority to consent to the mine development and to enter into a surface lease agreement with the First Respondent. However, a CPA is a statutory entity in terms of the Restitution Act. Ketting 366 LR was not claimed in terms of the Land Restitution Act. Accordingly, the respondent is cited for having a direct and substantial interest in this matter. No relief is sought against the respondent.

15. The Ninth Respondent is the **BAHANANWA TRADITIONAL COUNCIL**, which is led by Kgoshi Isaac NgoakoLeboho as a senior traditional leader. The respondent is cited by virtue of having a direct and substantial interest in the matter as it exercises traditional leadership jurisdiction over Old Langsine 360 LR, Langbryde 324 LR, and Lomondside 323 LR and that are encompassed in WJV' mining right area, although no surface infrastructure is presently approved at the surface of these farms. Further, Kgoshi Isaac Leboho is particularly interested in WJV's BEE shareholding, in that in a meeting he attended in November 2013 WJV was ordered by the DMR to accommodate a 10% free-rider shareholding in favour of directly affected communities in the 26% HDSA BBBEE shareholding but this did not materialize. No relief is sought against the respondent.

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16. The Tenth Respondent is the **BAKONE BA MATLALA-WA-THABA TRADITIONAL COUNCIL LED BY KGOSHIGADI RESETTA MATLALA** as a senior traditional leader. The respondent is cited by virtue of having a direct and substantial interest in the matter from a historical point of view having litigated with WJV previously invclving the Third Applicant. In this present case, the interest is also because members of the Fourth Respondent have elected to pledge allegiance to her traditional leadership. Mr Simon Ngoepe, who has in terms of the MPRDA Section 96(1) lodged a statutory appeal against granting of a mining right in favour of WJV, has applied for a certificate of appointment as headman of Lewaneng village. No relief is sought against this respondent.

17. The Eleventh Respondent is the **BLOUBERG LOCAL MUNICIPALITY**, which has the authority to administer applications for change in land use in terms of the Spatial Planning and Land Management Act (SPLUMA) and is one of the key stakeholders of the WJV Project. The respondent is cited by virtue of having offered to play a facilitation role for the disputing parties to engage in settlement discussions of the dispute and therefore has a direct and substantial interest in the matter. No relief is sought against the respondent.

18. The twelfth Respondent is the **EARLY DAWN COMMUNITY CLUB EXECUTIVE COMMITTEE,** which purports to have the exclusive right to administer the social affairs of residents in Early Dawn 361 LR and Millicent LR farms. The respondent is cited by virtue of being pro-WJV and against members of the Fourth Applicant's assertion of their constitutional right electing to administer their affairs in terms of customary law and the Traditional Leadership Governance Framework Act (TLGFA)

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and to seek the protection of their informal and communal land rights under the IPILRA. The three entities (WJV; Fourth Applicant; Eleventh Respondent) were previously involved in litigation. No relief is sought against this respondent.

APPLICANTS' LEGAL STANDING

20. The Applicants are informal and communal land rights holders and thus lawful users or occupiers of the land properties in question, in terms of IPILRA and the living customary law, custom, and practices of the holders, individual residents in these farms do not have common law title deed registration to their residential and farming plots flowing from the apartheid land ownership system. The IPILRA Section 2(4) read with **INTERIM PROCEDURES GOVERNING LAND DEVELOPMENT DECISIONS WHICH REQUIRE THE CONSENT OF THE MINISTER OF LAND AFFAIRS AS NOMINAL OWNER OF THE LAND** (interim Procedures) is one of the three measures taken after the dismantlement of the apartheid system that seeks to protect informal land tenure rights (i.e. informal by virtue of not being formally registered at the Deeds Office) and, significant to this present matter, expressly provides for the informal land rights holders to be represented. Copies of the Interim Procedure and IPILRA notice of intention to develop communal land are attached hereto marked **"MGM2A"**and **"MGM 2B"**.

21. The Applicants further bring this application in the following manner:

    21.1. On their ownin terms of section 38(1)(a) of the Constitution of the Republic of South Africa.

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21.2. On behalf of the members of their respective constituencies, in terms of section 38(1)(e) of the Constitution.

21.3. In the interest of any members of Kgatlu, Lewaneng, and Ga-Ngoepe villages who wish but are not able to litigate on their own.

21.3. In the public interest in terms of section 38(1)(d) of the Constitution.

22. Furthermore, the applicants bring this application in order to assert their constitutional rights:

22.1. To security of land tenure rights in terms of section 25(6) of the Constitution, as given effect to by IPILRA.

23. To sustainable development of the mine development project in terms of the rule of law, accountability, and transparency as contemplated by section 1 of the Constitution and given effect to by NEMA and the MPRDA. In particular, the Applicants bring this application in the protection of the environment, which expressly provides for legal standing under section 32 of NEMA.

24. Administrative justice in terms of section 33 of the Constitution, as given effect by section 3 and 4 of the PAJA and section 54 of the MPRDA.

JURISDICTION

24. This Honourable Court has jurisdiction to hear this matter on the following basis:

24.1. The whole cause of action arose within its area of jurisdiction and furtherthat the unlawful activities are being conducted within the jurisdiction of this court.

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PURPOSE OF THIS APPLICATION

25. The purpose of the application is to approach this Court on an urgent basis and seek interim interdictory relief against the first Respondent on terms appearingmore fully in the Notice of Motion.

26. It must be recorded that these papers were settled under extreme haste and it is possible that other allegations may have been left out and typos might find their way into this application.

SYNOPSIS OF THE MATERIAL FACTS

Pertaining to interim interdictapplication

27. WJV has unlawfully commenced with mining and mining-related activities as the MPRDA Section 25(2)(d) has not been complied with in that:

27.1. WJV has not all prerequisite authorizations, licences, permits, permissions, consents, and approvals in place.

27.2. Notably, WJV has no water use license and no consent or approval to change the use of the land from agriculture to mining.

27.3. Provisions of the Promotion of Administrative Justice Act (PAJA) has not been complied with in that for example the Fourth Respondent as appeal authority has not yet determined request by members of the Second Applicant to suspend the decision granting mining right pending finalization of the appeal as well as the appeals lodged by members of the Third and Fourth Applicants.

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Pertaining to *mandament van spolie*

28. WJV has unlawfully deprived members of the Second and Third Applicants of their peaceful and undisturbed possession of Goedetrouw 366 LR and Ketting 368 LR communally owned farms in that prior to entering and taking control of portions of the farm it had not:

28.1. Undisputedly, given a written notice required in terms of the MPRDA Section 5A(c) to the well-known representatives of the Fourth Applicant namely Mr Simon Ngoepe and Mr Johannes NareSenosha as residents of Ketting 366 LR farm, Lewaneng village.

28.2. Undisputedly, held any consultations with residents of Goedetrouw 366 LR and Ketting 368 LR as contemplated in terms of the MPRDA Section 54, pursuant to negotiating terms of access to, use, and occupation of the land. Arguably, such consultations and associated consents and permission must be with the general residents and not only with the leaders of the communities. Further, that the consultations must be in accordance with procedural and substantive safeguards provided under IPILRA.

28.3. It is noted that notice was not also given to the following state actors:

28.3.1. The Second Respondent, as required in terms of the MPRDA Regulations.

28.3.2. The Sixth Respondent, as requiredin terms of the standard policy directives of the DALRRDthat a notice of intention to develop communal tribal land must be given for any proposal to develop such land. It is noted that WJV denies that there is such a requirement. A copy of the notice of intention to develop communal land is attached and marked **"MGM 2B", supra.**

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29. Important facts relating to the nature and content of the ownership of the land properties in question, and Goedetrouw 366 LRfarm, in particular, are that:

29.1. The three farms were all acquired in the 1940s as released land for Africans in terms of the South African Development and Land Act of 1936.

29.2. However, the Africans who purchased the land were not allowed to own the land in their own right. The land was held in trust by a government official (Minister of Native Affairs), a Chief, or a missionary.

29.3. In the case of Goedetrouw, the land was boughtthrough the Native Commissioner based in Bochum and the Minister of Native Affairs had to approve any disposal or encumbrance of the farm following taking a resolution by 23 of the 24 purchasers of the farm at a general meeting called by the headman and his Executive Committee

URGENCY

30. This application is brought on a semi-urgent basis although arguably it deserved to have been brought on an extremely urgent basis noting what is at stake:

30.1. Flagrant disregard of the law and plain ccmmon law illegal act in that WJV invaded the land by simply breaking the gate and putting down a fence when it forcibly entered the Goedetrouw 366 LR land used as a camp main for cattle grazing.

30.2. Statutory offences under the NEMA, the SPLUMA, and the NHRA, all of which criminalizes this unlawful conduct.

30.3. Indeed, the SPLUMA expressly provide for an interdict against illegal land use.

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30.4. This land is a highly sensitive landscape as it is comprised of Makgabeng Plateau and is located within the Critical Biodiversity Area of Vhembe Biosphere Reserve in respect of:

30.4.1. It is nominated as a National Heritage Site by the Rock Art Research Institute (RARI) and this caused the South African Heritage Resources Agency (SAHRA) to successfully appeal against the environmental authorisation (EA) issued by the DMRE approving location of the main surface infrastructure at this farm (Goedetrouw 366 LR). Curiously, the SAHRA is yet to issue a final comment after the EA was amended by attachment of a condition that purports to satisfy its requirements. It is in noting this that the Applicants has lodged an internal appeal against the granting of mining right and requested the appeal authority to suspend the mining right in terms of section 96(2) of the MPRDA. It is clear that WJV is attempting to undermine this statutory interdict by this invasion. It wants the appellant to be faced with a fait acompli situation.

30.4.2. WJV's own biodiversity consultant recommended that surface infrastructure should not be placed at Goedetrouw 366 LR but rather at the Keeting 368 LR farm option. This is so because the Biodiversity Act is a robust legislation that provides for prohibition of mining at certain Critical Biodiversity Areas.

30.4.3. It is in the public interest, as what is at stake in this matter are national heritage, environmental and mineral assets, that legal certainty is obtained about mining at the area prior to commencement of any incidental activity. As will be demonstrated further, there are serious doubts whether WJV is managing environmental impacts in a generally acceptable manner. That is why interested and affected parties wants the mine to be precautious and involve the public in its mitigation plans.

31. However, WJV has shunned attempts by the Applicants to engage it in this regard even after it was warned that urgent remedies will be sought against it. In a letter dated 28 July 2021, WJV in fact described the extended indulgence it was given since the last deadline it was given to

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immediate stop mining and mining-related ctivities as an merely an attempt by the Applicants to threaten it. It is clear therefore that the Applicants' reluctant to hastitly rush to court is mocked by WJV.

32. Accordingly, given that last weekend the extent of environmental damage being done was properly assessed, the Applicants had to launch this application.

33. In appreciation that it is since 19 July 2021 that it seemed clear that WJV had no authorization to commence as it failed to provide the Applicants with the proof that its commencement was approved by the DMRE and DALRRD in response to the written notice it must give these state actors, the Applicants was advised by its approval documentation or to give it an undertaking that it will stop immediately.

34. Allied to this is the precautionary principle that dictates a cautious approach on the part of a court where the harm apprehended may have indeterminate and catastrophic consequences. Hearing this matter on an urgent basis before the harmful conduct has commenced will give effect to this principle.

35. If brought in the ordinary course, the application will only be heard perhaps next year, that would be too late to stop mining from commencing.

36. In the circumstances, the Applicants have acted quickly and appropriately in instituting this application. As will be deliberated in more details when dealing with the four requirements of an interim interdict, the Applicants have engaged WJV with a view to avoiding these proceedings, apparent from the correspondence addressed to WJV and their attorneys as per letters dated 27 July 2021 and 29 July 2021. Copies of the letters are attached and marked **"MGM 9A" and "MGM 9B", supra**. WJV's intention to commence regardless of that letter was conveyed to the Applicants by WJV's attorneys on 28 July 2021.

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37. The application has been set down on semi-urgent basis for hearing on Tuesday 10 August 2021. This was done to give WJV a reasonable opportunity to answer and for time for a reply.

38. In the circumstances, I respectfully submit that the urgency required by the timelines set out in the Notice of Motion is justified.

39. As alredy stated, WJV has pursued its preference to place the main surface infrastructure of its intended underground mining operations at the Goedetrouw 366 LR highly sensitive biodiversity area as opposed to the adjacentKetting 358 LR landthat is already disturbed by

human activities. The entire 630ha parcel of land at Goedetrouw 366 LR camp is located within the Vhembe Biodiversity Reserve Critical Biodiversity Area, in respect of which mining is ordinarily restricted or prohibited in terms of the MPRDA Section 48(1)(c);

39.1. The severe impact that this preference would have on the socio-economic and livelihood conditions of the communities of Kgatluand Lewaneng who have informal and communal land rights in respect of the Goedetrouw 366 LR and Ketting 368 LR farms, WJV has failed to meaningfully and in good faith consult with the general community members about concerns that would no longer have land for grazing and housing purposes, in the case the Kgatlu community. In the case of members of the Third and Fourth Applicants, their grievances start with historical compensation disagreement and apprehension that WJV is intending on continuing to discriminate against them siding with the rival group; and

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39.2. concerns expressed by the First Applicant about the rule of law, which WJV has since it arrived at the area has displayed a flagrant disregard for the rule. For example, in 2013 it commenced with prospecting activities prior to having obtained prospecting right.In September 2018 it continued with activities incidental to prospecting whereas the prospecting right had expired; in the process, protected indigenous trees were cut and a WJV contractor was caught red-handed stealing wood from the camp.From 8 July 2021 it has unlawfully taken possession and control of Goedetrou 366 LR farm and proceeded with the clearing of vegetation and deforestation without requisite permissions from the lawful occupiers and state actors);

40. The people impacted are not the elite common law owners of the farm Goedetrouw 366 LR as WJV and in particular, Mr MliboMgudlwa wants us all to believe his theory that they are. These are the people who suffered under the colonial and apartheid system like all other indigenous people of this land such as Mr MliboMgudlwa himself, although he now seems to be an elite that has forgotten or even shuns his roots. The farm is and has always been governed in terms of the African living customary law, as evidence by the foundational Constitution of the Native purchasers of the land that the Commissioner of Native Affairs insisted that is attached to the Deed of Transfer. The Commissioner installed a headman. So Goedetrouw 366 LR farm had a headman. A common law private property was Africanized: it became a customary communal public property with the Commissioner of Native Affairs on top, as was the system applied commonly throughout the country, I am advised.

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41. I am aware that this land tenure rights state of affairs is disputed by WJV and doubted as the correct legal position by the people of Kgatlu, Lewaneng, and Ga-Ngoepe. It is partly for this reason that one of the prayers is an interim interdict in the form of a rule nisi. This is so that the matter is properly ventilated in the process of WJV showing the cause why it should not seek the consent of this customary community for entering its land, using and occupying a hugechunk of it for mining purposes.

42. Plainly, these are the people that must simply be protected by this Honourable Court.

43. Objectively, brazen illegality against the most pristine natural area is at play in front of our own eyes and there is no promise of relief being obtained in due course from any legal forum in that:

43.1. The DMRE as a regulator has for the past two weeks ignored calls for intervention. Mr MliboMgudlwa is known to brag that he is not only politically connected by virtue of coming from the same Eastern Cape Province's town of Queenstown with Mr GwedeMantashe, the Minister of Mineral Resources and Energy, but that he actually has family ties with the family of the Minister. I found upon arriving at the area that this brag was perceived as a reality by the villagers who cried out to MEJCON-SA to assist.

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43.2. In the past, a criminal case was opened against WJV but this ended nowhere. Both the Chairman of a representative body of Kgatlu village (Mr Simon Manamela) and the Senosha family visited the SAPS to open a criminal case against WJV regarding the unlawfulness attacked in this application and the associated illegality, the men were taken from pillar to post. Mr Johannes NareSenosha was told:

43.2.1. At the charge office in Matlala police station, to report the case to a local headman and to engage Mr MliboMgudlwa in an attempt to resolve the trespassing dispute.

43.2.2. During a phone call with Constable Mogale, that Mr Simon Manamela obtained a letter from a Magistrate for him to open the criminal case and that the Senosha family must therefore also follow the same route.

43.2.3. On 20 July 2021, after the Senosha family complained to the Station Commander of Matlatla SAPS, by the visiting police officers that he must go and remove WJV's property from their farming plot if they say they cannot afford a lawyer to interdict and restraint WJV. In other words, instead of simply opening the trespassing criminal case as requested, the police officers advised the Senosha family to take law into their own hands. The police officers refused to visit the crime scene.

44. This flagrant lack of respect for the rule of law is a cultural shock that has shaken this small and law-abiding community to the bones and it is apprehended that if

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this disrespect is not known to have been pierced and destroyed by the sharp spear of a court of law, members of the community will in future fear to report environmental crimes – not to mention to make any attempt to protect the environment if the violator is a powerful and politically connected mining company.

45. In this case, two alternative sites were proposed for placement of the main surface infrastructure for WJV's underground mine:

45.1. At Ketting 368 LR farm: The only legal reason this option was not selected by WJV, is that the community is not approving the relocation of identified graves, noted the SAHRA in an interim comment letter addressed to WJV. It is noted, however, that only a handful of graves were identified at the site.

45.2. At Goedetrouw 366 LR farm: Although visible graves were not identified at the site (Goedetrouw grazing camp), the SAHRA still successfully appealed against placing surface infrastructure at this site once this site (and not the proposed alternative site at the adjacent Ketting 368 farm) was authorized by the DMRE under NEMA.

45.2.1. It is only Ketting and Goedetrouw farms where WJV proposed to place the main surface infrastructure.

45.2.2. Another hurdle that WJV had to jump into relating to the Goedetrouw camp is that it is located within the Vhembe Biosphere Reserve Critical Biodiversity Area

PN MGM

(CBA). No mining must take place within a reserve in terms of the MPRDA Section 48(1)(c): Unless the Minister of Mineral Resources and Energy gives written permission for mining to be undertaken at the area by exercising discretionary powers in terms of the MPRDA Section 48(2).

46. I pause for a moment to comment about the reaction of the SAHRA to the directives given by the appeal authority in upholding of the appeal:

46.1. As a point of departure, the DMRE was not entitled to issue environmental authorization (EA) under NEMA whereas the SAHRA had not yet issued a final comment in terms of the NHRA Section 38(8) as the inference to be made by this lack of final comment is that WJV has not met the SAHRA's requirements. The duty of the DMRE is to ensure that the evaluation of the impact on heritage resources by the proposed mine development is couched in peremptory terms NHRA Section 38(8) and therefore the SAHRA's comment cannot be ignored. WJV had for example not meaningfully consulted in terms of the NHRA Section 38(3) with the community and the Rock Arts Research Institute (RARI) about mitigation of heritage resources, as for example there is no evidence that the communities of Kgatlu, Lewaneng, and Ga-Ngoepe were presented the proposed mitigation plan or cultural offset strategy regarding the impact on protected heritage resources.

46.2. The condition that the Minister directed the DMR to attach to the amended EA is vague and impractical to enforce. For example, whereas Ketting 368 LR farm in its entity is one of the farms included in the nomination of farms at Makgabeng

PN MGM

Plateau as a National Heritage Site and is approved for location of a tailings storage facility (TSF) albeit it is at a high-lying area or is within the 500m buffer zone of Makgabeng Plateau, the DMRE proceeded to grant a mining right without specifically requiring the location TSF be relocated from this sensitive landscape. The DMRE did also not require the location of a ventilation shaft at Early Dawn farm to be relocated as the location is in violation of this condition. Furthermore, it is inconceivable that WJV can conduct underground mining at the far-flung Rosamund 357 LR farm moving from Goedetrou 366 LR without a requirement of another ventilation shaft. A sketch plan of the location of TSF at Ketting is attached and marked **"MGM 3"**.

46.3. Following the amendment and the instruction that WJV revises or compile a Heritage Management Plan for review by the RARI before the plan is submitted to the SAHRA, interested and affected parties, and notably the directly affected communities were not involved and given an opportunity to comment on the plan in the context of the successful appeal. It is also noted that the directly affected communities were also not asked to participate in the settlement discussions leading to the attached conditions. This was prejudicial to the directly affected communities, in terms of the NEMA Section 2(4) sustainable development environment management principles.

46.4. In the end, the SAHRA did not issue a final comment in terms of the NHRA Section 38(8), and therefore an administrative *lacuna* and legal certainty was created. The DMRE has again taken an unlawful decision by granted mining right

PN MGM

without this mandatory requirement. MPRDA Section 23(1)(d) and (6) were not satisfied and therefore the grant of the mining right is appealable or reviewable.

47. WJV seeks to unlawfully take advantage of this *lacuna* by quickly settling on the land.

48. WJV is further improperly seeking to circumvent the prohibition the appellants have requested the Minister to enforce in terms of the MPRDA Section 96(2) by offering leadership of Kgatlu village a vast amount of money (R1m), without any legal basis, to withdraw the appeal. For the purposes of entering the land as contemplated under Section 5(3), there seems to be no factual or legal basis for the community to require the services of experts in order to grant access once the is given a written notice and consulted in terms of Section 5A(c) and 54 unless a dispute arises and in which case any of the two parties can seek mediation intervention of the Second Respondent by giving him a written notice in terms of Section 54(1) or (7).

48.1. I am not aware whether the Seventh Respondent has invoked Section 54(7) in reaction to the disagreement, dispute, confrontation, and prevention with Mr MliboMgudlwa over the unlawful access to and occupation of the land.

48.1.1. WJV had a peremptory obligation in terms of Section 54(1)(a) to give the Second Respondent a written notice once it was physically prevented from continuing entering the area. It was not entitled to forcibly proceed to enter in disregard of this obligation, because such constitutes a criminal offence in terms of the NEMA

PN MGM

Section 49A(1)(c)for contravention of Standard Condition 1.5 of the EA in that the MPRDA applicable for undertaking this activity is contravened.

48.2. I am aware of a written notice in terms of Section 54(7) that a member of the Second Applicant (Mr Brains Manamela) gave to the Second Respondent. The latter did not respond immediately or within the prescribed 14 days. A copy of an email sent to the Second Respondent is attached and marked **"MGM 4"**.

49. Further, it is noted that at or around 19:30 on 13 July 2021 Mr MliboMgudlwa approached leaders of the community and required them to on the spot *post facto* sign a letter of consent for access already forcibly gained.

49.1. In other words, Mr MliboMgudlwa wanted the leaders to sign without consultation with and specific mandate of the community or obtaining the consent of the majority landowners in accordance with the Constitution of Goedetrouw 366 LR attached to the Deed of Transfer. This Constitution envisages customary law practices as it provides for an appointment of a headman (Mr Marcus Choshi). A copy of the Constitution is attached hereto marked **"MGM 5", supra.**

49.2. More significantly, Mr MliboMgudlwasidelined lawyers for the two parties, and this points to unethical conduct notably because Mr MliboMgudlwa is ordained in the legal fraternity as he was previously a senior state prosecuting advocate. Furthermore, given that the prevention to access the camp triggered a peremptory obligation for Mr MliboMgudlwa to immediately seek the

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intervention of the Second Respondent in terms of Section 54(1)(a), it was misleading of him to seek in the letter that the leaders "agree to engage directly in writing before resorting to regulators or court to settle issues between them".

49.2.1. It is noted that by this date he was on 8 July 2021 already copied an email sent to WJV' lawyer Mr Allan Reid that the Applicants may launch an urgent application "Should no undertaking be given before the closing of business [response] on Tuesday 13 July 2021" (sic). Copy of email sent on 8 July 2021 and the letter dated 12 July 2021 are attached marked **"MGM 6"**and**"MGM 7".**

50. In fact, at the time he was trying to induce the leaders to sign the agreement letter, Mr Aubrey Langa on behalf of the Third Applicant copied him an email sent to the Second Respondent calling upon the latter to address the unlawful access in contravention of Section 54(7) dispute resolution mechanism that the Applicants invoked.

51. On 16 July 2021, it was realised that an incorrect email address of Mr Allan Reid was used, and perhaps that was why no response was received by 13 July 2021. Accordingly, the email was forwarded and a new deadline was set for Tuesday 19 July 2021. A copy of an email dated 16 July 2021 is attached as **"MGM 13"**.

52. On Thursday 22 July 2021 the Senosha family eventually met with representatives of WJV and officers of the SAPS at the family's farming plot as part of the SAPS investigation of a trespassing criminal case that the SAPS was refusing to open.

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53. In reaction to the allegation that WJV has unlawfully entered the farming plot it uses in terms of a customary law arrangement and had carried activities incidental to mining prior to (i) notifying the farming plots users including the Senosha family or the residents in general (as required in terms of the MPRDA Section 5A(c)) and (ii) consult with the residents of Lewaneng, in general, pursuant to obtaining its consent to access the land and to engage in focused consultations with farming plots users pursuant to discussing and negotiating compensation for loss and damage to the land (as envisaged under the MPRDA Section 54), the representative stated that:

53.1. WJV has given a notice and has consulted with the Lewaneng CPA which purports to own and has the mandate to administer the communal land in question and, further, to represent the farm plots users.

53.1.1. In responding the Senosha family told the representative that from his many years in the area he knows that there are divisions amongst residents of Lewaneng based on traditional leadership politics for example and in particular that the Senosha family are rivals with the CPA. Notably, that based on this knowledge, WJV consulted the rivals separately during the consultations and public participation process it conducted in 2018.

53.1.2. Further, that WJV knows that Mr Johannes NareSenosha has on behalf of the Fourth Applicant, invoked Section 54(7) internal dispute resolution mechanism pertaining to compensation payment dispute that occurred during the prospecting phase. Mr Johannes NareSenosha in fact opined that it is because of

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this invocation that WJV deliberately and intentionally avoided engaging members of the Fourth Applicant as per the notice, consultation, and consent requirements.

53.2. That he is not aware of the rivalry and division amongst residents of Lewaneng village.

53.2.1. This is incorrect, as noted above.

53.2.2. In fact, WJV has previously hired a lawyer exclusively for the Fourth Applicant group to advise on consultation requirements and content.

53.3. It is for Mr MliboMgudlwa to instruct that the poles installed in the farm be removed as demanded by the Senosha family.

53.4. Mr MliboMgudlwa will contact the family.

53.4.1. It is noted that the representative (Mr Matiwane) has during the protest action that on 14 May 2021 members of the Fourth Applicant has embarked on promised that he will ensure that Mr MliboMgudlwa replies to the Memorandum of Grievances and Demands (Memorandum) but the latter did not do so. In the Memorandum the Applicants drew the attention of WJV that it has invoked Section 54 internal dispute resolution mechanism in terms of which WJV is denied access to communal land properties prior to the exhaustion of the dispute resolution process.

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53.4.2. Further, on 16 July 2021, the Applicants sent an email to the lawyer of WJV demanding immediate stoppage of activities incidental to mining at Ketting farm and that by close of business on 19 July 2021 WJV should have engaged with it in the context of the dispute declared in terms of the MPRDA Section 54(7).

53.4.3. Accordingly, WJV had a mandatory duty to specifically consult with the Senosha family, not the CPA. This is evidence that WJV has intentionally omitted to consult with the Senosha family and other farming plots users who are members of the Fourth Applicant.

54. On 26 July 2021 the Fourth Applicant, on the request of the Senosha family, instructed Nyoffu Attorneys to engage WJV's lawyer to inform him that Mr MliboMgudlwa is put on terms to engage Mr Nyoffu within 48hrs otherwise the attorney must launch an urgent interim interdict application.

55. In the letter that Mr Nyoffu addressed to Mr Allan Reid, WJV is urged to engage the Applicants as per the Section 54(7) notices given pursuant to finding amicable solutions.A copy of the letter dated 27 July 2021 is attached and marked **"MGM 9"**.

56. It cannot be overemphasized that the entire community stands to be prejudiced if WJV is not stopped in its tracks by following improper means of trying to *post facto* legalize its unlawful entry and occupation of the land for mining purposes.

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57. Significantly, WJV is continuing with the unlawful conduct despite the opportunity offered by the Applicants to engage pursuant to finding an amicable solution.

Chronology of the events regarding spoliation

58. Althoughthe cause of action of this application is that from 8 July 2021 WJV's has unlawfully dispossessed and deprived members of the communities of Second and Third Applicants of their peaceful and undisturbed possession and informal land rights to use and enjoyment of areas within Goedetrouw 366 LR and Ketting 368 LR farms, this unlawful conducts commenced early 2013 when WJV commenced with prospecting operations at Goedetrouw 366 LR prior tobeing granted prospecting right.

59. Accordingly, whereas focus must thus be on what the affected has done about this unlawful conduct since then, it is important to contextualize the problem by:

59.1. Providing a brief outline history of the unlawful conduct of the part of WJV during the prospecting phase, in order to appreciate the Applicants' contention that WJV ought not to have been granted the right and therefore there is a good prospect of success that appeals against the grant of a mining right may be upheld.

59.2. Providing facts in support of the Applicants contention that WJV's present unlawful invasion of the land is in an attempt to pre-empt the effect of this, and other administrative actions taken by the Applicants.

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60. I should indicate that in October 2013 WJV had a peaceful and undisturbed possession of the land properties in question-based on "possession" of a prospecting right obtained in terms of the MPRDA Section 16 for exploring Platinum Group Metals and associated minerals.

53. The initial prospecting right covered Ketting 368 LR and Early Dawn 361 LR farms among others, but more prospecting rights were subsequently acquired, covering a huge track of land as per the sketch plan marked and attached as annexure "**MGM10**".

54. The land properties covered under the new prospecting rights included those falling under the jurisdiction of the Bahananwa Traditional Council (BTC) recognized in terms of the Traditional Leadership Governance Framework Act (TLGFA) and led as a senior traditional leader, Kgoshi Isaac NgoakoLeboho.

55. In a meeting held in November 2013, Kgoshi Isaac Leboho leading the BTC facedoff WJV as represented by Mr MliboMgudlwa asserting the priority right to apply in competition with WJV for a community preferent rights for the minerals as they occur at land to be registered in the name of the community, as contemplated in terms of the MPRDA Section 104.

56. The meeting was chaired by the Regional Manager, then Mr Aaron Kharivhe. In attendance were, amongst others, an official from the Department of Rural Development and Land Reform (DRDLR) and Mr Aubrey Langa. Mr Aubrey Langa represented Kgoshi Isaac NgoakoLeboho and the BTC.

57. Mr Aubrey Langa was at the meeting also in the capacity of being the convener of the Royal Economic Forum, which was an initiative of traditional leaders who

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have jurisdiction over properties endowed with platinum mineral deposit belt of the Northern Lobe of the Bushveld Igneous Complex stretching from Mokopane town to land properties within the Blouberg Local Municipality falling under the jurisdiction of the BTC. The traditional leaders participating in the initiative included KgoshiKgaboMoloto and KgoshigadiMatlala.

57.1. In accordance with the apartheid landownership system, Africans were generally not allowed to privately own land in terms of common law, and in the event, they purchased land released for public acquisition by a tribe, the land would be held in public trust in the name of a Chief recognized by the system or in the name of a government official recognized by the system. Early Dawn 366 LR, Ketting 381 LR, and many other farms in this region were purchased in the name of Chiefs including KgoshiKgaboMoloto and KgoshigadiMatlala.

57.1. Legal issues dealt with included that the Regional Manager had administrative duty to inform the BTC about the application for prospecting right that WJV launched and to afford it to make representation regarding the application, as held by the Constitutional Court in *Bengwenyama* judgment. Such representation is also required in terms of the cooperative governance agreement between the DMR and the DRDLR as concluded on 10 October 2002 between the ministries of these two departments. An extract of the cooperative governance agreement is marked and attached as annexure **"MGM 11"**.

57.2. The official of DRDLR advised that the agreement was in fact incorporated in a new standard policy directive of the department called the State Land Lease and

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Disposal Policy (SLLDP) operational from 25 July 2013. At Item 22 in Chapter 3 of the SLLDP dealing with the disposal of state and communal land for commercial development, it is stipulated that the policy applies to mine commercial development as well. At Item 24 community public participation in the proposed commercial development is emphasised and at Item 23 entitlement for the occupiers and/or users of the land proposed to be developed are stipulated.

57.3. It was resolved that instead of the community applying for a preferent right in competition with WJV, that the latter accommodates the community ring-fencing a 10% free-rider shareholding in the 26% HDSA BBBEE shareholding that WJV is required to divest in terms of the Mining Charter II.

58. WJV never accommodated the community in its BEE transaction during the prospecting phase including when the transaction was amended in October 2017 following the consolidation of all the prospecting rights into WJV.

59. The communities were also not accommodated when WJV applied for a mining right in September 2018, despite that at this time the revision of the 2010 Mining Charter II was a major topic in the mining industry. The mining industry resisted the call by the community-based organizations and associated civil society organizations such as the First Applicant that the new Mining Charter aligns with the SLLDP's requirement of a minimum 10% free-rider shareholding.

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60. In September and November 2018, WJV conducted public participation processes in support ofan application for environmental authorization (EA) in terms of NEMA and mining right in terms of the MPRDA. Highlights of the process include:

60.1. The public participation process was disrupted by community members of Kgatlu, Lewaneng, and Ga-Ngoepe, complaining about historical issues mainly compensation for losses and/or damages suffered during the prospecting phase as well as a dispute regarding payment of surface use rent by WJV.

60.2. In the case of the Lewaneng community, the community was divided politically: between those electing to administer their social affairs in terms of the system of traditional leadership under the TLGFA and those opposed to this system. Those opposed to this system, as already said, believe that the land is privately owned.

60.3. I should also state that the appointed headman of the former group, Mr Simon Ngoepe (the deponent of a statutory appeal with reference number 9/2/4/4/1290), is not yet been issued with a certificate of appointment by the government, WJV recognized only the former group and paid surface rent to it. This was despite that prospecting activities were also carried out at farming plots and within or near residential and homestead plots of members of the other group. This latter group, which is the Third Applicant in this matter, was also not compensated for economic loss or damage to their plots.

60.4. As far as the public participation process in support of an application for environmental authorization (EA) and mining rights is concerned, WJV facilitated the Third Applicant's participation by paying a lawyer to advise

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members of the Third Applicant. WJV, therefore, consulted separately with the two groups but this recognition did not extend to payment of surface rent.

60.5. In the same way, WJV engaged exclusively with members of the community residing at Early Dawn 361 LR farm who are opposed to customary law practices under the TLGFA. The Fourth Applicant, whose members practice customary law but whose appointed headwoman is not yet issued with an appointment letter in terms of the TLGFA, were side-lined regarding surface rent and during the public participation process that WJV conducted in support for the application for EA and mining right. However, in response to a complaint filed with the Regional Manager of the DMR, the public participation process was extended to this group.

60.6. WJV, therefore, consulted separately with the two groups but this recognition did not extend to payment of surface rent. The Applicant was eventually assisted on a pro bono basis by Richard Spoor Attorneys to engage with WJV on legal issues including compensation for losses and damages suffered. The applicant was also assisted by the First Applicant regarding activism to demand mining and environmental justice. Accordingly, complaints were inspected by an official of the SAHRA and an official of the national Department of Environmental Affairs and DMR. Based on the confirmation of claims by the officials, Richard Spoor Attorneys are currently busy compiling a formal compensation claim.

61. In August 2020 WJV was issued with environmental authorization. Whereas both the Second and Third Applicants wished to file a statutory appeal against this issuance, this

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was not done within prescribed timeframes and thus the late-filed appeals were dismissed by the Minister of Environmental, Forestry, and Fisheries as the appeal authority.

62. However, an appeal by the South African Heritage Resource Act was upheld by the Minister, and the Environmental Authorisationwas amended with conditions. Curiously, the SAHRA did not subsequently issue a final comment as obliged to do in terms of the NHRA Section 38(4). Whatever the reason(s), I am advised that a legal fact remaining is that the SAHRA as an independent authority mandated to protect the nation's heritage resources is in peremptory terms required to ensure that the DMRE ensures that its requirements and those of the NHRA are fulfilled prior to the mining right being granted. A copy of a notice letter about the appeal is marked and attached as annexure **"MGM12"**.

63. It is important to note that the SAHRA's issue is that WJV did not fulfill its requirement to conduct specialist studies such as Built. Most significantly, however, and as contemplated in terms of the NHRA Section 38(3) read in the context of Section 38(8) application, that WJV has failed to consult with stakeholders including the communities and the Rock Art Research Institute (RARI) regarding its nomination of the Makgabeng Plateau and surrounding buffer zone as a national heritage site. The Applicants argue that all the farms are at Makgabeng Plateau and surrounding 500m buffer zone and accordingly the DMRE was not entitled to grant a mining right in respect of the land properties mentioned in the mining right application.

Challenges to the granting of mining rights

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64. In February 2021 the Applicants heard rumors circulating within the community and in media reports that mining rights were granted. The media reports included the specialist mining media journal, Mining Weekly. It is noted that:

64.1. WJV or its consultant (Linda Dickson of Dipororo Consulting) did not formally notify interested and affected parties about the grant, and so as their attention to the availability of an appeal and its procedure should one wish to do so.

64.2. WJV also did not inform interest and affected parties, notably the directly affected communities where the Second, Third, and Fourth Applicants are residents, of the grant of its mining right application.

65. As far as the Fourth Applicant is concerned, WJV tried to discourage the community from appealing by proposing not to fight the community's claim of historical compensation payment. The Forth Applicant took a dim view of this proposal, considering it extortion aimed at improperly securing the mining right against robust grounds of appeal. A copy of an email in which the proposal is made is attached marked **"MGM 13".**

66. Indeed, after the appeal was lodged, WJV stood by its stance that it would not entertain the compensation claim in the event the Fourth Applicant filed an appeal.

67. All in all, in March 2021 members of the communities of Lewaneng, Kgatlu and Ga-Ngoepe separately lodged internal appeals in terms of the MPRDA Section 96(1). The members include Mr Johannes NareSenosha, Mr Brains Manamela, Mr Joseph Manamela, Dr PhuthiNgoepe, Ms Elsie Mahwai, Mr AriosMoroka, Mr Edward Ramoroka, and Mr MamediNgoepe. An unconfirmed report is that the Kgatlu representative structure has in

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April 2021 mandated one Mr MM Chosi to also file a statutory appeal purportedly on behalf of the entire community of Kgatlu.

68. Mr Johannes NareSenosha subsequently, on 31 March 2021, proceeded to invoke the MPRDA Section 54(7) mechanism by hand-delivering at the Registry of the Second Respondent's office for his attention, a written notice declaring a dispute with WJV regarding damages incurred during the prospecting phase by members of the Third Applicant. A copy of the written notice is attached and marked **"MGM 14"**.

69. The Second Respondent failed to respond to the notice within the prescribed 14 days period.

70. In the circumstances, on 14 April 2021, an email was sent to Mr MliboMgudlwa informing him about the Section 54(7) notice and the amended appeal documents. A copy of the document containing this email is attached marked **"MGM 15"**.

Action taken to highlight dispute regarding claims of historical damages

71. On 15 April 2021 the Third Applicant held a meeting with Mr Makwela, an attorney of the Blouberg Local Municipality (BLM) responsible for the administration of notice in terms of Regulation 3 of the Gatherings Act to embark on protest action. Mr Makwela advised that the policy of the BLM was that the dispute issues between citizens of the municipality and others must be mediated by the Mayor of the municipality before the municipality approves the notice.

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72. Subsequently, a week later the Mayor chaired a meeting which the Municipal Manager arranged with the protest action convener (Mr Johannes NareSenosha), the deputy convener (Mr Aubrey Langa), the Chief Marshal (Mr Arios Ramoroka), and others to hear out issues which the directly affected communities have with WJV. Highlights of the meeting are set out below.

73. Mr Arios Ramoroka produced a heap of letters sent to the BLM since 2015 complaining about WJV and requesting the BLM to intervene. After making numerous follow-ups, an official of the BLM sent the community to the DMR.

74. The Mayor was informed that the DMR advised the community to give the Regional Manager a formal written notice in terms of the MPRDA Section 54(7), in order to trigger a mandatory dispute resolution procedure led by the Regional Manager. The written notice was given on 31 March 2021 and that the Applicants want to deliver the notice to WJV during the protest action.

75. The Mayor confirmed that Mr MliboMgudlwa requested the Municipal Manager that the parties meet under mediation led by the municipality. However, the Third and Fourth Applicants informed the Mayor that a formal mediation process led by the Regional Manager of the DMRE was initiated through the written notice and that this is a mandatory process for the mining right holder and the surface right holder to follow. Accordingly, the Applicants proposed that the municipality plays the role of facilitating and expediting the convening of Section 54(2) meeting by the Regional Manager, following which the Regional Manager would direct how the parties should proceed with the next step, Section 54(3).

76. This step provides for a semi-informal meeting between the parties in the sense that the Regional Manager would allow the parties to engage in his absence and then the parties

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revert to him with an outcome of this engagement. During this engagement, the parties must make every effort to resolve disputes and to agree on the compensation amount.

77. A critical role of the Regional Manager in directing this engagement is that he may agree to a proposal by the community to be assisted by requisite experts (e.g. social scientists; legal practitioners; quantity surveys) in the settlement discussions and negotiations in order to balance power relations between the negotiating parties as expressly contemplated under Item 24.3 of the SLLDP. Element 2.6 of Mining Charter II, dealing with Community Development, also requires a mining right holder to invest in consultative, collaborative, and ethnological processes in engaging with traditional and historically disadvantaged communities.

78. Further, the NEMA Section 2(4)(f) environment management principle also provides that "The participation of all interested and affected parties in environmental governance must be promoted, and all people must have an opportunity to develop the understanding, skills, and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured".

79. Furthermore, since the Regional Manager will under the next step, Section 54(4), be determining fault it was that the negotiations broke down, it would be better if it not the community's fault only because the community was not better advised by experts about the process and its content. Should the Regional Manager find that fault is on the part of the community he would then have to refer the matter to be further dealt with through an arbitration process, or a competent Court. The matter thus becomes prohibitively expensive for the historically disadvantaged community to take it to Court.Should the Regional Manager find that it is the fault of the First Respondent that no agreement was reached, he may prohibit the respondent from proceeding with mining operations until and unless an agreement is reached.

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80. Acknowledging that there is a very high potential that the parties may fail to reach an agreement and that the municipality has no authority to prohibit the respondent from proceeding with mining operations until and unless an agreement is reached, it was agreed that the municipality will play a facilitation role.

81. On 29 April 2021 Mr MliboMgudlwa attended a meeting in terms of Regulation 4 of the Gatherings Act relating to the protest action notice. The meeting could not proceed because the convener could not make it to the meeting on time. However, after the meeting was postponed Mr Aubrey Langa and Mr MliboMgudlwa held an informal meeting and the latter agreed to attend a meeting hosted by the BLM.

82. However, after the BLM was informed of the agreement, it was agreed that Mr Aubrey Langa proceeded in arranging the meeting. In an email dated 3 May 2021, Mr MliboMgudlwa declined to attend the meeting. A document containing correspondence between Mr MliboMgudlwa and Mr Aubrey Langa is marked and attached as annexure **"MGM 16"**.

83. On the day of the protest march and in an interview with the popular current news programme of Thobela FM called Eloka-la-Tsela, Mr MliboMgudlwa accused the protesters of having an ulterior motive and he would not attend to receive a Memorandum of Grievances and Demands (Memorandum) to be delivered. Indeed Mr MliboMgudlwa did not come out to receive the Memorandum, to which the notice given to the Regional Manager was attached. However, he delegated.

84. It is important to emphasise that Mr MliboMgudlwa denied that WJV caused damages to graves during the prospecting phase and that there was no compensation payment dispute

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as the company denied any liability claimed by the community members of Lewaneng and Ga-Ngoepe villages and that accordingly, he will not attend the meeting facilitated by the Eleventh Respondent in the context of the Section 54 mechanism.

85. On 21 May 2021, the Second Respondent was informed that the Applicants have delivered the notice to the First Respondent. Mr MliboMgudlwa and his lawyer were copied this attached as **"MGM 17"**.

86. First Respondent was called upon to facilitate the convening of Section 54(7) meeting by the Second Respondent for mutual benefit as the mechanism protects the rights of both parties. I attach copies of the Memorandum of Grievances and Demands as well as pictures of the protest action, marked **"MGM 18"** and **"MGM 19"**.

87. On the same day, an article featured in Creamer Media Mining Weekly journal that the Second Applicant's community launched a review application against the dismissal of its application for the Minister of Environment, Forestry, and Fisheries to condone its late filing of an internal appeal in terms of the NEMA Section 43(7). Underlying the launch of this application is apparent dissatisfaction of the community with the project, otherwise, why would a community want to strip WJV of its EA?

88. It is common cause that Second Respondent was aware of invocation of all these administration actions, notably highlighting of the Section 54 mechanism by Thobela FM. A clear inference to make from this is that, the Second Respondent was either neglecting his statutory duty as an impartial regulator or that he is undermining the invocation of Section 54 internal dispute mechanism by the community

PN MGM

89. On 8 June 2021, I received a call from a member of the Third Applicant that WJV has reportedly entered Goedetrouw 366 LR farm to commence with mining and mining-related activities. I informed Mr Aubrey Langa and the latter started investigations pursuant to confirming the report.

90. On the same day, Mr Aubrey Langa called Mr Brains Manamela of the Second Applicant about the report and the latter stated that he has also heard the report but that he is not in the village and so he will send someone to verify.

91. Mr Aubrey Langa then addressed an email to WJV's lawyer, Mr Allan Reid in order to confirm the rumors. Further, to request that he provides written notice to the DMRE and surface rights holders. A document containing the email is attached marked **"MGM 20"**.

Encroaching the farm Goedetroud 366 LR

92. On 7 July 2021 WJV entered part of Goedetrou 366 LR disregarding the appeal lodged with the minister and section 54 lodged to the regional manager for the internal dispute mechanisms.

93. On 8 July 2021 Mr MliboMgudlwa went to the home of Mr Simon Manamela, the Chairman of a community representative structure called the General Council to inform him that WJV has entered the farm with equipment, for the purpose of commencing with mining and mining-related activities. When he did not find the Chairman at home, he went to the despoiled area and shortly thereafter was joined by the Chairman. Mr Brans Manamela sent pictures of employees of WJV. A document containing the pictures is attached marked **"MGM 21"**.

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94. Mr MliboMgudlwa claimed that WJV has correspondences in which permission to enter the area was allegedly obtained from the lawyer of the community, Mr Ramphela, to enter the land, WJV had broken locks of the main gate in order to enter the area. Mr MliboMgudlwa further claimed that this was in line with engagements that WJV had with the lawyer and the community since March 2021. The engagements and correspondences included a meeting that the lawyer had with Mr Allan Reid on 22 May 2021, the lawyer for WJV, and a compilation of minutes of the meeting by Mr Allan Reid on 26 May 2021.

95. The men exchanged unpleasant words and in the process, Mr MliboMgudlwa reportedly told the Chairman to court to seek an interdict. Mr MliboMgudlwa promised the Chairman that WJV will successfully defend the interdict and seek punitive costs against the Chairman and the community.

96. When he heard that the Chairman was intending to open a criminal case the next day, in the evening Mr MliboMgudlwa tried to induce the leaders to sign a letter in which the community consents to access the land. A copy of the letter dated 12 July 2021 is attached and marked **"MGM 7", supra.**

97. On 12 July 2021, Mr Aubrey Langa addressed an email to the Second Respondent, calling for his intervention as WJV was undermining the Section 54(7) mechanism. Significantly, the Second Respondent was informed that Section 54(7) notice also covered residents of Kgatlu village (i.e. Second Applicants).

98. On the same day, the Second Applicant also sent an email calling upon the Second Respondent to convene a Section 54(2) meeting. The email is attached and markedas annexure **"MGM 22"**.

PN MGM

99. The next day the Chairman of the General Council opened a criminal case under **Matlala CAS 73/07/2021.**

100. On 14 July 2021, Mr Johannes Senosha managed to visit the area and found that WJV has disturbed land which his family had prior hereto peacefully and undisturbed possessed and used as a farming plot. The activities on the farm were clearly incidental to mining and therefore in contravention of the MPRDA Section 25(2)(d) and 54. A copy picture of the disturbance is shown and attached andmarked as annexure **"MGM23"**.

101. On Friday 15 July 2021 the father of Mr Johannes NareSenosha went to open a trespassing criminal case against WJV at Matlala SAPS but the police refused to assist him.

102. On 16 July 2021 Mr Aubrey Langa sent an email to the lawyer of WJV, Mr Allan Reid, notifying him about the invasion of the farming plot of the Senosha family by WJV and that the family be engaged at least by the 19 July 2021. Further, that in the meantime, WJV immediately refrains from carrying out activities incidental to mining at the farm, given the Section 54 dispute declared. A Copy of the email is attachedand marked as annexure **"MGM8", supra**. The Second and Fourth Respondents were copied in this email.No response was received by 19 July 2021.

103. In the meanwhile, the Senosha family continued with the struggle of trying to have the criminal case opened, against the odds of the police taking them from pillar to post.

THE REQUIREMENTS OF INTERIM INTERDICT

PN MGM

104. This application also seeks an interdictory order against the respondents. I am advised that a party who approaches Court for an interdict must satisfy the requirements for an interim interdict. The requirements are:

104.1. Prima facie right;

104.2. Harm suffered; and

104.3. Balance of convenience

104.4. Lack of alternative remedy.

PRIMAFACIE RIGHT

105. I submit that we have a prima facie right in that we are informal and communal land rights holders of Goedetrouw 366 LR farm and Ketting 368 LR by virtue of having no title deed registration to their residential, farming, and grazing plots occupied at least since 1940.Our rights as lawful informal and communal land rights are protected under section 2 of IPILRA.

106. We should be notified, consulted and our consent obtained in accordance with the requirements of IPILRA Section 2(1) and (4) read with the MPRDA Section 54, prior to WJV accessing the camp for commencement with exercising of mining rights. However, WJV contends that IPILRA is not applicable to the land properties in question as it claims that the properties are "private communal land" held in terms of common law and thus in respect of which consent is ousted by the MPRDA.

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107. Our rights in respect of the farms in dispute are also protected by the Constitution of the Republic of South Africa.

108. I submit that WJV rejects the contention of the Applicants that the directly affected residents as IPILRA informal and communal land rights holders are protected by prescribed procedural safeguards, which requires a robust public participation process and thus transparency in the negotiations of the terms of use and occupation of the land. It is this concept dispute that caused the Applicants to invoke and declare common cause with the written notice in terms of the MPRDA Section 54(7) given to the Second Respondent.

109. We submit that the first respondent did not obtain our consent to enter the farms pending an appeal lodged to the third respondent (Minister of Mineral Resources and Energy) in terms of section 96 (1) MPRDA and 96 (2) against granting of a mining right to suspend the mining right pending the finalisation of the appeal who is the appeal authority for the appeals lodged against granting of the mining right. Until the thirdrespondent has not taken adecision to suspend the right, the first respondent is not entitled to commence with mining and mining-related activities.

110. I should indicate that section 54 of the MPRDA invoked requires the regional manager to respond within 14 days. it is very important to demonstrate to the Honourable Court that We are still waiting for the feedback from the second respondent, however, the first respondent all entered into our farms unlawful while waiting for the response from both the regional manager and appeal from the Minister.

PN MGM

111. Thus, the applicant has a prima facie right to bring this application. I respectfully submit that the applicant has established a prima facie right for an interim interdict to be granted.

HARM SUFFERED OR REASONABLY APPREHENDED

112. I submit that our farm plots will be converted into a mining area without our requisite consent. We are going to be deprived of enjoyment and use of our farming and grazing plots for the rest of our lives without our requisite consent.

113. The damage caused by the commencement of mining is likely to be permanent and irreversible. This would prejudice the Applicants including the associated vegetation and water sources.

BALANCE OF CONVENIENCE

114. If the Applicants' appeal and section 54 fail and if mining is ultimately permitted, WJV would not have been significantly prejudiced. It can only start mining in compliance with statutory requirements, permissions and authorisation.

115. Until that issue is settled by the determination of the appeal and by compliance with section 54 of the MPRDA, mining cannot start. If the Applicants succeed, WJV would have been saved the wasted costs of commencing mining and later finding that a decision enabling the commencement of mining operations is quashed.

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116. However, the damage caused by the commencement of mining is likely to be permanent and irreversible. If mining starts but has to stop because the appeal succeeds and the Regional Manager in terms of section 54 of the MPRDA, that would already prejudice the Applicants including the associated vegetation and water sources.

ABSENCE OF ALTERNATIVE REMEDY

117. There is no satisfactory or adequate alternative remedy to stop mining from starting. WJV's proposed conduct is unlawful. I am advised that this court will not deprive the Applicants of a remedy that interdicts WJV from taking further unlawful steps. The Applicants are not required to wait until WJV commences with mining activities before approaching the court for relief.

118. I submit that we are still in the process of engaging with the first respondent, we were busy exchanging letters with the first respondent through our attorneys but seemingly the first respondent is undermining that process and pendingfinalisation of appeal lodged to the Minister and section 54 to the regional manager the respondent disregarded all the processes and encroached ourfarms.

119. Section 5 (4) of the MPRDA prohibits mining or undertaking of any work incidental thereto in the absence of amongst others, a properly approved EA. In addition, section 25(2) (e) of the MPRDA provides that the holder of the mining right must comply with the requirements of the approved EA.

PN MGM

120. I submit that the applicants have no other option available at their disposal but to approach this Honourable Court to vindicate their rights.There is no other suitable legal remedy available to ourselves other than to approach this Honourable Court.

121. As already mentioned, the Applicants have sought to proactively avert the dispute regarding commencement with mining and mining-related activities prior to the Section 54(7) being exhausted but there was no cooperation on the part of WJV as represented by Mr MliboMgudlwa.

122. A letter sent to WJV's attorney advising that the Applicants were amenable to engage cost-effectively under the Section 54 mechanism was also not responded to.

123. Mr MliboMgudlwa made it clear during a radio interview that he is not prepared to engage with the Applicants who organized a protest action against WJV.

124. And an attempt by the Mayor of Blouberg Local Municipality to facilitate mitigation talks was shunned by Mr MliboMgudlwa.

125. It has now transpired that Mr MliboMgudlwa intended use of underhand methods including throwing money at community leaders, to circumvent dealing with the requirements of the MPRDA Section 54(7) and 25(2)(d).

126. On 28 July 2021, WJV as represented by CDH Attorneys Inc declined to give an undertaking that it would stop with the unlawful conduct. Accordingly, the Applicant had to within reasonable time launch this application. A copy of the letter from CDH Attorneys is attached hereto and marked **"MGM 9B"**.

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127. But more worringly, certain members of the Goedetrouw 366LR have taken upon themselves to also join Mr. Mgudlwa in trying to circumvent dealing with the requirements of the MPRDA Section 54(7) and 25(2)(d). This, notwithstanding repeated requests for law abiding Kgatlu residents to let both administrative and legal processes to run their cause. This I am advised is against the very tenet of our law. But the behavior of elected leaders entrusted with safeguarding Kgatlu legacy for future generations is aimed at achieving the exact opposite effect. It is also worrying to learn that indivudual leaders are instructing other leaders such as the Mining Forum Deputy Chairperson not to share any information that could help save the village with other community members.

128. Members of the Second Applicant became very worried when they heard that a private lawyer was hired to address mining related issues with no source of income at all for the community. This is deemed very careless and put in perilous position the future of the village. The concern was raised in the General Council meeting of the 4th April 2021 and the community agreed with this point of view. Members of the Second Applicant requested documentation to be made available so that people who are able to read and write could participate meaningfully in future meetings.

129. What followed was unprecedented emergency meetings organized for the Board of Directors with the objective of sideling the very people who ask pertinent questions to help elderly people in the community to make sense of what is unravelling before their eyes. For as far back as March 2021 and as per previous precedence, the leaders (Board of Directors) were asked to set up a meeting with

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other members of the community so as to formulate a strategy to address critical issues affecting Goedetrouw 366 LR. The requests were refused as can be attested to in "**MGM 29**". Specific documents that relate to Mining Right Appeal and EA Judicial Review were sought through emails and absolutely no response from Board members who ought to carry out fiduciary duties.

130. The behavior of the General Council Chairperson and Board of Directors of sidelining members who ask questions in meetings led to the formation of Goedetrouw 366 LR Concerned Residents. The straw that broke the camel's back happened in the General Council meeting of the 26th June 2021 wherein the General Council Chairperson chastised Mr. Brains Manamela for a legitimate request to share documents which the Chairperson acceded to under pressure during a 24 April 2021 meeting. It stands to reason that these sought documents have information that both the Board of Directors and GC Chairperson do not want community members who have access to. A copy of the letter requesting members of the BoD to share information as agreed in a community meeting is marked "**MGM 30**".

Legal requirements

131. A valid mining right was obtained in terms of the MPRDA Section 23.

131.1. The validity of the grant of the mining right is challenged in appeals lodged by the Applicants in terms of the MPRDA Section 96(1), for example under reference numbers 9/2/4/3/1296, 9/2/4/3/1304, and 9/2/4/3/1306. To avoid

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the prolixity of this application, the appeal documents are not attached but can be made available if required.

132. One of the grounds of appeal is that the mining right application did not meet the requirement set out in the MPRDA Section 23(1)(d) in that application related to highly sensitive land contemplated in terms of Section 48(1) as:

132.1. The land properties subject to the application are within the Makgabeng Plateau and associated 500m buffer zone, which is rich in cultural heritage notably rock art. Rock art artifacts were also identified within the Goedetrouw 366 LR camp, as reported in the attached document marked "**MGM 24**".

118.2. I should indicate that SAHRA has successfully appealed against issuing of NEMA Environmental Authorisation on the basis that the properties fall under Makgabeng Plateau and its 500m buffer zone, which is nominated by the Rock Arts Research Institute (RARI) as a National Heritage Site. The SAHRA did not issue a final comment in terms of the NHRA Section 38(4) read with Section 38(8) as the application did not meet its requirements, therefore the DMRE could not lawfully take administrative decision grant mining right.

118.3. Again, the land property falls within the Vhembe Biosphere Reserve Critical Biodiversity Area, the First Respondent' own consultant (LD van Essen of Nyengere Solutions (Pty) Ltd) recommended that the Goedetrouw 366 LR camp be avoided, and surface infrastructure is placed at an alternative site on Ketting

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366 LR farm. Copy of EA is attached marked **"MGM 25"**,on page 12 and paragraph "h").

118.4 The requirements in terms of the NHRA and the Biodiversity Act are couched in peremptory terms and therefore the DMRE cannot lawfully ignore them without the grant being successfully challenged. The placement of infrastructure at Goedetrouw 366 LR and Ketting 368 LR can only be lawfully and speedily carried out under the following circumstances:

118.4. 1. The Applicants and the First Respondent enter into cultural and biodiversity off-set agreement under a Section 54 procedure, and agreements relating to socio-economic benefits as guided by the Mining Charter and SLLDP, based on dispute resolution process supervised by the DMRE.

118.4.2. Withdrawal of the appeals, based on confidential agreements with the appellants.

118.4.3. Amendment of the mining right by expressly stating that it is granted in terms of the MPRDA Section 48(2). In terms of Section 96(2), some of the Applicants requested the Minister of Mineral Resources and Energy to suspend the rights. I am advised that in terms of fairness demanded under PAJA, this request must be finalized first before the First Respondent is allowed to commence with mining and mining-related activities.

A valid environmental authorization and waste management license.

PN MGM

119. The validity of the authorization and the license is challenged by the General Council of Kgatlu village by way of a review application launched at the High Court of South Africa, North Gauteng Division.

120. I should demonstrate to the Honourable Court that, the Second Respondent notified the General Council that it intends to oppose this review application. However, until and unless this matter is finally dispensed with, the First Respondent is not entitled to commence with mining and mining-related activities.

A valid integrated water use license.

121. I am advised that the First Applicant was obliged in terms of the One Environment System (OES) rolled out in December 2014, to integrate public participation processes (PPP) conducted in terms of the NEMA EIA into the PPP required in terms of the National Water Act and if the DMRE decided to nonetheless grant mining right, this should be under the condition that the listed water use activity applied for are not carried out prior to a valid license being in place.

121.1. A problem for the envisaged application is that the tailing storage facility (TSF) is placed on prohibited land as contemplated in terms of the MPRDA Section 48(1). The land, at Ketting 368 LR is at Makgabeng Plateau and within its buffer zone.

PN MGM

121.2. Again, the Environmental Authorisation approves the location of waste rock dump (WRD), ore stockpile and pollution control dam at the camp, despite that three shears traverse the area. This creates a risk of surface subsidence and potential physical harm or death of employees.

Permits in terms of the SAHRA:

122. In terms of the NHRA Section 38(8), there is no requirement for the Second Respondent to separately apply for permits in terms of the NHRA Section 35 and 36 prior to disturbing the archaeological features and graves. What is required is that the DMRE must require that the applicant for EA must integrate consultation required in terms of the NHRA Section 38(3) to conduct Heritage Impact Assessment (HIA) into the NEMA Environmental Impact Assessment required to be conducted in support of an application for NEMA environmental authorization (EA).

123. In this case, the SAHRA required the First Respondent to consult with interested and affected parties pertaining to impact on heritage resources and to conduct numerous specialist studies. The First Respondent did not fulfill the SAHRA requirements and therefore the latter did not issue a final comment in terms of the NHRA Section 38(4). It is noted that, if an application is not a Section 38(8) application, then in terms of the NHRA Section 38(4) the SAHRA is a competent authority to decide on the application to develop an area where there are heritage resources protected by the NHRA.

PN MGM

124. In this case, the SAHRA declined to issuea final comment and successfully appealed against the decision by the DMRE to grant environmental authorization (EA) in disregard of the lack of this final comment.

125. It is noted that the SAHRA has not issued a final comment even after the DMRE at the instance of the Minister of Environment, Fishery and Forestry amended the mining right to imposed conditions which include that the mining right excludes land properties at Makgabeng Plateau and buffer zone (normally of 500m from the designated boundary of the plateau). A clear inference to make is that the SAHRA is not satisfied that its requirements were met and hence still declined to issue a final comment in terms of the NHRA Section 38(4). A copy of the SAHRA system is contained in guidelines attached hereto marked **"MGM 26" and "MGM** 27". A copy of a screenshot of the SAHRIS showing that no final comment was issued is attached as **"MGM 28".**

126. I submit that by virtue of the abovementioned information the DMRE was not entitled to grant mining right as the requirements of the MPRDA Section 23(1)(d) were not met as evidenced by the fact that the SAHRA has not issued a final comment in terms of the NHRA Section 38(4). The amendment still did not fulfillthe SAHRA requirement that mining at Makgabeng will not result in unacceptable degradation or damage to the cultural environment.

Permissions

PN MGM

127. Permission of the majority of residents of Kgatlu as informal land rights holders under the IPILRA, which permission must be obtained in accordance with the Interim Procedures to access land, based on negotiated and agreed upon terms of access.

128. Permission of the majority of residents of Lewaneng as informal land rights holders under the IPILRA, which permission must be obtained in accordance with the Interim Procedures to use access road on Ketting 336 LR leading to the camp and to deprive farming plots users such as the Senosha family of their right to control access and use of the land.

129. Permission of state organs (DMRE and DALRRD) to access the area, as mandated under the MPRDA Section 5A(c) or 54 and the IPILRA Section 1. The right of entry in terms of the MPRDA Section 5(3) is subject to these two provisions, which prohibit mining unless the mining right holder has complied with them.

Consents

130. If the land became state land of any form after the demise of the Lebowa self-governing territory, then ministerial consent is required to formally dispose of the land in any manner. Only the Minister of Agriculture, Land Reform, and Rural Development has the formal power to dispose of the land.

131. However, the disposal is subject to the majority of informal land rights holders who attended a meeting properly convened to take a community resolution. A key

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feature of the meeting is that participation of all informal land rights holders is facilitated, and the process is supervised by a designated official of the DALRRD.

132. In this case, the General Council and the First Respondent contend that the land is privately owned under common law, whereas the property is not formally registered at deeds office in the name of the General Council or community trust.

Mandament van spolie

133. I am advised that mandament van spolie is an extraordinary, and robust remedy for the restoration of possession. I am further advised that to be successful with this application, an applicant should prove the following two elements -

133.1. that the applicant was in undisturbed possession of the property

133.2. that the respondents had deprived the applicant of its access to the property forcibly or wrongfully.

134. I should indicate that the first respondent, is Waterberg JV Resources (Pty) Ltd (WJV), on or about 8 July 2021 and too dated unlawfully deprived the First and Second Applicants of their informal and communal land rights to control access to, use, and occupation of Goedetrouw 366 LR farm and Ketting 368 LR properties.

135. The first respondent on the 08th of July decided to encroached the Goedetrouw 366 LR farm and Ketting 368 LR unlawful and entered the

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farm despite the appeal which is lodged and section 54 of the MPRDA pending the finalisation of these processes. It is very important to indicate to the Honourable court that immediately section 96 (1) and read with section 96(2) invoked, the first respondent is not entitled to continue with the mining activities pending the finalisation of the appeal from the Minister. Again, around March 2021, the applicant wrote to the Regional Manager to invoke section 54 mechanisms within 14 days, however, the Regional manager did not respond yet. The first respondent ought to have waited for boththe appeals and section 54 to be finalised.

136. In addition,specifically, areas where the First Respondent purportedly has approvals in terms of the mining right granted in terms of the Mineral and Petroleum Resources Act (MPRDA) and the environmental authorization (EA) issued in terms of the National Environmental Management Act (NEMA) place surface infrastructure for the underground mine it intends to build.

137. The areas despoiled were immediately before 8 July 2021 and since WJV's prospecting right lapsed in September 2018 peacefully and undisturbed in possession of communities of Kgatlu village controlling Goedetrouw 366 LR farm and of Lewaneng village controlling Ketting 368 LR farm. The family of NareSenosha, whose farming plots at Ketting 368 LR was also despoiled, was not given a written notice and was not consulted envisaged in terms of the MPRDA Section 5A(c) and 54. Mr Mlibo Mgudlwa, the representative of WJV who knows very well that the

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farming plot belongs to the family of Nare Senosha and who during the week of 8 July, in fact, ran into Nare Senora in the village, was apparently intent on not engaging the family regarding entering the farm notwithstanding these two peremptory provisions.

138. WJV's despoliation of members of the communities of Second and Third Applicants by having unlawfully dispossessed and deprived them of their peaceful and undisturbed possession and informal land rights to use and enjoyment of areas within Goedetrouw 366 LR and Ketting 368 LR farms, without their consents (or permission if landownership is in terms of common law, which it is denied that this is the case) required in terms of the living customary law observed by the Applicants and the Interim Protection of Informal Land Rights (IPILRA) Section 2(1).

139. In fact, as will be detailed in the factual matrix set out herein below, WJV forcefully entered the Goedetrouw 366 LR by breaking a gate and fence at the grazing camp component of the farm. In addition, officers and/or employees of WJV threatened and used agricultural vulgar against a leader of the community of Kgatlu village (the Chairman of a community representative structure called the General Council).

140. After hearing that the Chairman intended to or had opened a trespassing charge against WJV, in the evening of July 2021 Mr MliboMgudlwa visited the home of some of the leaders of the community including the

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Chairperson? Inducing them to sign a letter giving WJV consent to enter and use the camp for mining and mining-related activities.

141. Furthermore, WJV failed to restore possession even after the Chairman opened a criminal case and the Senosha family were turned away by the SAPS when they also wanted to open a trespassing charge pertaining to their farming plot.

142. WJV's unlawful entering of the mining right area pursuant to commencing with activities incidental to mining prior to meeting its obligations under the MPRDA Section 25(2)(d), to which its right of entry in terms of section 5(3) of the Act is subject to.

143. Being ignored and prejudiced by the Second Respondent when called upon to act against these unlawful conduct and activities.

144. These unlawful conduct and activities are in breach of the WJV's rights and contractual obligations set out in clause 2 of its mining right notarially executed on 13 April 2021. This clause incorporates section 5 and 25, which WJV must comply with as a prerequisite to exercising its Section 5(3) statutory right of entry to the land comprising mining right area and commencing with mining and mining-related activities. Specifically, WJV has:

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144.1. Failed to give the landowner(s), informal and communal land rights holders a Section 5A(c) written notices. In particular, notice was not given to the Second Applicants, who are also appellants in statutory appeals lodged in terms of the MPRDA Section 96 against granting of the mining right. These include Ms Elsie Mahwai, Dr Ngoepe, Mr Brains Manamela, and Mr Joseph Manamela.

144.2. Failed to consult with the landowner(s), informal and communal land rights holders as contemplated under the IPILRA Section 2(4) and the MPRDA Section 54 in order to negotiate terms of access to, use and occupation of the land for mining purposes.

144.3. Ignored historical compensation payment issues which the communities of Kgatlu (Goedetrouw 366 LR), Lewaneng (Ketting 368 LR), and Ga-Ngoepe (Early Dawn 361 LR) are dealing with by way of appeals against granting of the mining right, contending that the mining right ought not to have been granted as WJV has not dealt with these compensation payment disputes in accordance with the mandatory Section 54 internal dispute resolution mechanism. In this regard, it is further noted that WJV:

144.4. Has disregarded responding to a Memorandum of Grievances and Demands (Memorandum) that on 14 May 2021 the Applicants delivered. The Applicants drew the attention of WJV that Section 54 mechanism has been invoked by attaching to the Memorandum, the written notice letter given to the Second Respondent. The First Respondent was advised that it

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was for its benefit as well that it facilitates the convening of the MPRDA Section 54(2) meeting.

144.5. Is yet to obtain all authorizations, licenses, permits, permissions, and consents, as contemplated under the MPRDA Section 25(2), (d) prior to commencing with any mining and incidental activities.

145. The Second Respondent has failed in his statutory duty to timely respond to the call to intervene against the undermining of Section 54(7) internal dispute resolution mechanism, leaving the Applicants with no other option but to launch this urgent application.

146. Counsel for Applicants will argue the issue of costs, in particular, that the Applicants pray not to be mulcted with costs as at all material times they sought to assert and vindicate constitutional rights that should have been protected and promoted by the Second Respondent in the first place. It is respectfully submitted that the Biowatch rule is applicable, so is the NEMA Section 32(3) that protects those who litigate in *bona fide* protection of the environment.

LEAVE TO SERVE THIS APPLICATION TO THE RESPONDENTS BY HAND AND/OR EMAIL.

147. We in our notice of motion seek an order that we be granted leave to serve this application by hand and or / email.

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148. Our attorneys of record are doing this matter pro bono because of a lack of financialmeans on our part. Service of this application on an urgent basis on all therespondents by the Sheriff of this Honourable Court may cost a total of about R7500 or more and which we are unable to afford.

149. We humbly request leave from the Honourable Court to serve this application on respondents by hand and/or email.

CONCLUSION

150. I submit that the Applicants have made out a proper case that they seek and as the Affidavitwas settled in haste, the Applicants reserve the right to supplement their affidavit.

151. Wherefore, I pray that the Court grant the orders prayed for in the Notice of Motion with costs, including costs of Senior Counsel and two junior counsel.

DEPONENT

The Deponent has acknowledged that she/he knows and understands the contents of this affidavit which was signed and sworn to before me at MOKOPANE on this the 28 day of July 2021, the regulations contained in Government Notice No. 1258 of July 1972, as amended and Government Notice No. R1648 of 17 August 1977, as amended having been complied with.

COMMISSIONER OF OATHS

COMMISSIONER: _____

FULL NAMES: _____

BUSINESS ADDRESS: _____

DESIGNATION: _____

AREA: _____

COMMISSIONER OF OATHS
PHILDRET NGOAKO SEABELA
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MINISTER OF MINERAL RESOURCES AND ENERGY	Fourth Respondent
MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Fifth Respondent
CHIEF DIRECTOR, LIMPOPO OFFICE OF THE DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Sixth Respondent
KGATLU REPRESENTATIVE STRUCTURES (GENERAL COUNCIL; BOARD OF DIRECTORS; KGATLU MINING FORUM)	Seventh Respondent
LEWANENG CPA	Eighth Respondent
BAHANANWA TRADITIONAL COUNCIL	Ninth Respondent
BAKONE BA MATLALA-A-THABA TRADITIONAL COUNCIL	Tenth Respondent
BLOUBERG LOCAL MUNICIPALITY	Eleventh Respondent
EARLY DAWN CLUB COMMUNITY EXECUTIVE COMMITTEE	Twelfth Respondent

REGISTRAR CLERK
IN THE HIGH COURT OF SOUTH AFRICA
LIMPOPO DIVISION, POLOKWANE
2021 -07- 30
PRIVATE BAG X9693
POLOKWANE 0700
CIVIL SECTION

RESOLUTION BY APPLICANTS

We,

1. KGABO SIMON MANAMELA REPRESENTING THE SECOND APLICANT.

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2. JOHANNES NARE SENOSHA REPRESENTING THE THIRD APPLICANT.

3. ARIOS RAMOROKA REPRESENTING THE FOURTH APPLICANT.

Authorize MARGARET GHOGHA MOLOMO to depose of this founding affidavit on our behalf.

Signatures:

1. Kgabo Simon Manamela: _____
2. Johannes Nare Senosha: _____
3. Arios Ramoroka: _____

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IPILRA

The act protects the land rights of all people who live on or use communal land under customary law or custom, usage or practice in the area. The act prohibits the taking of land without the consent of the right holder. The right holder can lose his or her rights to communal land if the custom and usage of the community is followed and if he or she is paid compensation. But there must also be a community majority decision with enough notice and with opportunity to ask questions and participate.

The directives under IPILRA explains the notice and participation requirements. The directives must be followed before there is any new development on the land or land is sold or leased.

The community meeting must be attended and supervised by an official of the Department of Land Affairs. The notice must state the purpose of the meeting and arguments for and against the change must be debated and considered. The meeting must be attended by all sectors that are rights holders and all must be encouraged to participate. There are prescribed forms that must be completed. A register of all men and women who attended must be kept. If the minister is the owner of the land and holds the title deed, then the minister will consider the official report and then make a final decision.

If each and every step and requirement of the act and the directives are not followed then the actions of the government, the chiefs, the community structures and the private sector developer can be challenged and they can be taken to court.

Some of the important provisions of the act and directives:

1. The Act requires that the majority of those "present or represented" at properly convened meetings should make the decision.
2. The key condition is that all the rights holders must have been given sufficient notice and a reasonable opportunity to participate. The way in which people are informed about the meeting is critical.

The formal written procedure of the DLA involves the following steps and if these steps are not followed the procedure can be challenged:

1) Application to the Department for Agreed Access to Land For Development Purposes
2) Appointment of An Official to Facilitate The Land Rights Holders Resolution
3) Gathering of Preliminary Information About The Community
4) Initial Meeting With The Stakeholders (purposes and notice of meeting)
5) Land Rights Holders Meeting/s (majority decision, written resolution, attendance register)
6) Submission to the Minister

Customary law recognises that communal land is owned by the community made up of all its members. The chief or his council is not the owner. The chief and his council are not the trustees of the land. While they have certain administrative and mediation functions they are not the owner. Often the title deeds to the land is in the name of the minister of land affairs or the government of South Africa but the community made up of all its members remains the owner in terms of customary law land cannot be sold or alienated unless the community agrees to a disposal. Also customary law recognises decentralised decision making processes involving affected stakeholder groups.

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MPRDA and mining on communal land

Since 2004 all new mining must follow the provisions of the new minerals act (the MPRDA). The MPRDA requires consultation with the owner and occupier of the land on which the mining is going to happen, before any new mining or prospecting can start.

If the state is the owner of the land, then both the owner and the occupants must be notified and consulted. If it is private land, then the title owner or the lawful occupiers must be notified and consulted (section 5(4)). A new amendment to this provision is currently being considered by parliament. It will require detailed regulations to govern the consultation process.

What is meant with consultation with occupants and occupiers? Can the community claim compensation if it is communal land then the community must be consulted and the most appropriate procedure is the one followed under IPILRA.

The purpose of notification and consultation must be reach agreement on the terms of access and use of the land. "If access and use of the surface means that the occupants and owners will suffer loss and damage then compensation is payable (section 54). The compensation must be agreed upon. If there is no agreement then the dispute must be resolved by the department of minerals and energy or there must be expropriation. All of this means that the community can negotiate for compensation or equity participation to make up for losses and damage as a result of new mining.

The MPRDA recognises communities as legal persons that hold or exercise rights or interests communally in terms of agreement, custom or law. Section 104 applies only to communities. It gives a community the right to apply for preferent rights on the land on which the community will become the registered owner. Once a community has a preferent right valid for 5 years then the community can find a joint venture partner to apply for a prospecting and mining right or apply itself.

It is a problem that old mining and prospecting permits under old laws that are still valid. These often do not recognise the rights of occupiers and communities. If these old permits are renewed or converted, then the rights of occupiers and communities should be included in the new authorisations under the MPRDA. In fact the bill 10 of 2007 that is currently being considered by parliament proposes that the minister can set conditions for community participation in new mining and when old order rights are converted.

Protected Areas Act

If any landowner (private or state) wants to start a nature reserve or a game reserve and get state recognition (local or provincial or national) of the reserve under the protected areas act then the owner must first consult with the occupiers. If IPILRA applies, then a community meeting must be held.

If a community is affected by the declaration of a local or provincial protected area or a national park, then the community must first be consulted by the provincial government or the national department of environmental affairs. Then the procedure under the IPILRA directives must be followed.

PN To May & R.

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HDA

COMMUNAL LAND RESEARCH PROJECT

RFP/JHB/2015/003

ANNEXURE 7:

INTERIM PROCEDURES GOVERNING LAND DEVELOPMENT DECISIONS

November 2015

PN TG TR MGM KAM

This is a copy of the:

Interim Procedures Governing Land Development Decisions which require the Consent of the Minister of Land Affairs as Nominal Owner of the Land, as amended

From Department of Rural Development and Land Reform

afesis-corplan

www.afesis.org.za

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Interim Procedures Governing Land Development Decisions Which Require The Consent Of The Minister Of Land Affairs As Nominal Owner Of The Land.

1 Background

1.1 There are parts of the country where land which is *de facto* owned and occupied by African people is held in trust by the Minister of Land Affairs. In many such instances, the government is the nominal owner of the land because of previous racially discriminatory laws and practices which prohibited African people from owning land.

Disputes caused by lack of clarity

1.2 The lack of clarity about the status of such land has created serious disputes in some areas. Disputes are triggered when a change in land use or a development is proposed. The disputes tend to degenerate into a conflict over power and authority between local or provincial government on the one hand, and chiefs and tribal authorities on the other. In such disputes the chiefs typically say that government is disregarding or confiscating their land rights by treating the land as if it were state owned. Local and provincial governments on the other hand complain that chiefs or tribal authorities are using their land rights to keep government out of the area, thus depriving the people living there of access to government resources and assistance. It is necessary to clarify the rights and responsibilities involved, and adopt procedures to govern these situations. This should provide clarity and end the confusion which in some instances has led to disputes.

New legislation being developed

1.3 It is the policy of the Department (set out in the White Paper on South African Land Policy) that the long term occupants of this land should be treated as the owners of the land. The Department is busy developing legislation which will secure the rights of such individuals and groups of people in the future.

Need for interim procedures

1.4 In the interim, because the land is still nominally owned by the state, various decisions in respect of the land have legal status only if they are taken by the Minister as trustee or nominee. These decisions relate to matters such as township development, subdivision, ***granting of servitudes, leases, mortgages and sales.***

1.5 Decisions pertaining to ownership rights in communally owned land are most appropriately made by the majority of the members of such communal systems. If the decisions have been properly taken and it can be shown that they reflect the view of the majority of the rights holders and particularly of the people who will be affected by the decision, then the Minister's role should simply be to ratify such decisions.

1.6 However, until the legal status of the land is changed by legislation under preparation by the Department of Land Affairs, the Minister is under a fiduciary duty as trustee, to uphold and protect the rights of all the beneficiaries of such trusts. She is also under a duty to ensure that decisions she makes are consistent with the terms and rights protected by the Constitution. Furthermore, decisions taken must be consistent with existing laws. For example, they cannot undermine rights such as those set out in the *Interim Protection of Informal Land Rights Act, 31 of 1996*.

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1.7 In this regard, it is necessary that a set of **interim procedures** be set out to govern the circumstances under which decisions pertaining to land development issues are made by the rights holders who are affected and are ratified by the Minister as the trustee or nominal owner. Such procedures should provide a clear framework and increased certainty to those wishing to embark on the development of communally owned land. They should also enable the Department of Land Affairs to ascertain that the decisions taken reflect the views of the majority of rights holders and do not jeopardise or undermine the rights of any party. ***The Minister's official ratification of such decisions will be conditional on advice to this effect.***

2 Nature Of Group Based Rights

2.1 In situations of group based, communal and/or tribally based land rights the members of the relevant group, community or tribe should be treated as the co-owners of the land, even though formal legal ownership may be held by the State. Any decision in respect of ownership issues is valid only if it reflects the view of the majority of "co-owners".

2.2 ***A critical feature of the policy is that the rightful ownership of communal land vests not in chiefs, tribal authorities or committees but in the members of the group which holds the land.*** This position is consistent with customary law in terms of which the land belongs to the entire group and not to the chief or tribal authority. This has major implications for the processes in terms of which decisions pertaining to land ownership issues are taken. The members of the group or tribe are the co-owners of the land. This does not imply that all the members have equal and undivided shares in the land. In reality households have strong rights to their own homestead plots and fields, which are protected under the *Interim Protection of Informal Land Rights Act, 31 of 1996*. However there is also group based ownership of the area as a whole.

Majority decisions by holders of land rights

2.3 Decisions relating to land rights must be taken by the majority of members of the group or tribe. The White Paper on South African Land Policy states:

While the Department of Land Affairs is committed to the recognition and protection of pre-existing land rights which were undermined by colonialism and apartheid, it is equally committed to protecting and upholding the basic human rights of all South Africans. In particular the rights of members of group based land holding systems must be protected, especially the process of inclusive decision making in all matters pertaining to the management of the jointly held land asset.

2.4 This means that where government wishes to introduce any change or development in an area it must have effective access to all the rights holders (or co owners) in the area so that they are in a position to decide about matters which will affect their land rights. It is not acceptable or sufficient for a chief, tribal authority or committee to reject or accept proposals unless their view is based on the majority decision of the members of the tribe or community.

3 Issues Of Principle

Consultation about the proposed changes

3.1 There are four fundamental issues of principle. The first is that any proposed changes should not dispossess people of land rights without their consent. This would be unconstitutional and also illegal in terms of the *Interim Protection of Informal Land Rights Act,*

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31 of 1996. Thus any sub grouping of people who have rights (including informal land rights as defined by the Act) to an area which is affected by the proposed changes must be consulted about the changes envisaged. This may raise the issue of compensation and alternatives for people who may lose land rights to a specific area

Majority decision by co-owners

3.2 The second issue of principle is that the majority of members of the land holding group should agree with the proposed changes if they are to go ahead. This is on the basis that they are rights holders in the land and thereby have the status of co-owners

Gender equality

3.3 The third issue is that proposed changes must not transgress the constitutional right of equality for women. In terms of the Constitution, women have the right to equal treatment with others. As a representative of government, the Minister cannot agree to changes which discriminate against women or any other group in society.

3.4 Particular attention must be given to ensure that women are not omitted in the distribution of any benefits arising and that they have an equitable role in decision making structures and processes.

Protection of existing rights

3.5 The *Interim Protection of Informal Land Rights Act, 31 of 1996* confers certain rights on people who occupy land on a customary basis in the former homelands and SADT areas. In terms of this Act, such people may not be deprived of an "informal right to land" without their consent, except by expropriation

3.6 The Act defines informal rights to land to include

(a) the use of, occupation of, or access to land in terms of:

(i) any tribal, customary or indigenous law or practice of a tribe;

(ii) the custom, usage or administrative practice in a particular area or community, where the land at any time vested in:

(aa) the South African Development Trust

(bb) the government of any area for which a legislative assembly was established in terms of the Self-Governing Territories Constitution Act, 1971; or

(cc) the governments of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei.

(b) the right or interest in land of a beneficiary under a trust arrangement in terms of which the trustee is a body or functionary established or appointed by or under an Act of Parliament or the holder of a public office;

(c) beneficial occupation of land for a continuous period of not less than five years prior to 3 December 1997; or

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(d) the use or occupation by any person of an erf as if he or she is, in respect of that erf, the holder of a right mentioned in Schedule 1 or 2 of the Upgrading of Land Tenure Rights Act, 1991 (Act 112 of 1991), although he or she is not formally recorded in a register of land rights as the holder of the right in question,

but does not include -

(e) any right or interest of a tenant, labour tenant, sharecropper or employee if such right or interest is purely of a contractual nature; and

(f) any right or interest based purely on temporary permission granted by the owner or lawful occupier of the land in question, on the basis that such permission may at any time be withdrawn by such owner or lawful occupier.

3.7 The Act states that, where land is communally owned and the community decides to dispose of land, it must provide appropriate compensation to any person who is deprived of an informal right to land by such disposal

Democratic decision making processes in communal areas

3.8 Section 2(4) of the Interim Protection of Informal Land Rights Act (Act No 31 of 1996) sets out requirements for a properly constituted meeting. The Act states:

2(4) *For the purposes of this section the custom and usage of a community shall be deemed to include the principle that a decision to dispose of any such right may only be taken by a majority of the holders of such rights present or represented at a meeting convened for the purpose of considering such disposal and of which they have been given sufficient notice, and in which they have had a reasonable opportunity to participate.*

3 9 Because of the scope of the Act, this section deals only with decisions to dispose of land rights. However for the purposes of these **interim procedures** the meeting requirements set out in the Act will apply to all land development decisions which require the consent of the owner, ***i.e. to matters such as township development, subdivision, granting of servitudes, leases, mortgages and sales.***

Conditions relating to meetings

3 10 It is important to note that the Act does not require the majority of rights holders to take decisions It may be impossible in situations where there are tens of thousands of rights holders to call them all together and get a majority vote The Act requires that the majority of those "present or represented" at properly convened meetings should make the decision. Thus in an area where there are 6,000 rights holders a meeting at which there were, say, 1,000 people present would be adequate if the conditions relating to the meeting were met. The key condition is that all the rights holders must have been given sufficient notice and a reasonable opportunity to participate. The way in which people are informed about the meeting is critical. If they knew about it but chose not to attend or participate, their failure to attend should not jeopardise the success of the meeting. If on the other hand they were not informed or were intimidated in some way, they could oppose the decisions taken on the basis that they were excluded from the process.

3.11 It may not be possible or appropriate to hold only one representative meeting in all cases Under certain circumstances it may be better to hold more than one meeting or a series of meetings with different stakeholders. This could be because of large distances and

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geographical factors, or because of the danger of intimidation by the larger group. Thus the interim procedures should not be limited to holding only one meeting as the Act implies. If more than one meeting is to be held, the notice for the various meetings must cover all the areas where informal rights holders, as specified in Act 31 of 1996, are affected by the decision

3.12 The critical issue is that such meetings be as representative as possible and that stakeholders are able to put their point of view in a constructive atmosphere. To this end the manner of calling the meeting should not itself be confrontational and cause conflict. Where the practice in the area is that meetings are called by the Tribal Authority, then the meeting should be called after consultation with it. Where existing practices and traditions already ensure that meetings meet the requirements set out in the Act and allow government and other stakeholders to participate effectively, it is not necessary to change them.

4 Application to the Department for Agreed Access to Land For Development Purposes

4.1 These procedures apply in areas where the group, tribe or individual concerned has underlying and historical ownership rights to the area, based on factors such as beneficial occupation under a trust or continuous and long term occupation of the land which historically belonged to the group

4.2 The procedure typically begins when the initiator of the project approaches the Department to make the land available for the purpose of the project. The applicant may be any organ of the state, an individual investor or a community. In order to proceed with the development the applicant needs to obtain the permission of the owner of the land.

4.3 ***A developer needs to be certain that s/he is negotiating with the appropriate person to obtain the land. Investors generally do not want to tie their money to risky/ uncertain situations.***

5 Appointment of An Official to Facilitate The Land Rights Holders Resolution

5.1 In order for the Minister as the nominal owner of the land to ratify group-based decisions pertaining to land ownership and development issues, she needs to be able to satisfy herself that the rights of all beneficiaries have been protected in the decision-making process and that the decisions do not contravene any law. The simplest way to do this is to send an official to witness and/ or facilitate the decision making process, to establish whether any informal rights to land will be affected by the decision and how these rights are being accommodated in the proposed changes, and whether the changes protect the rights of women. Decisions on the distribution and administration of benefits arising from investment or development will also have to be witnessed and, if necessary, facilitated.

5.2 Thus when decisions are to be taken, which legally require the Minister's formal ratification, it is necessary to notify the Director of the provincial office of the Department of Land Affairs who will appoint an official to visit the area affected by the decision and to be present at those meeting/s where the decisions are taken relating to matters such as township development, subdivision, granting of servitudes, leases, mortgages and sales. Reasonable notice and prior arrangements would have to be made in order to facilitate the official's attendance. The official will not be expected to attend meetings of committees or sub-committees formed to discuss details of the proposed development, only those meetings in which formal decisions are being taken about issues which legally require the consent of the owner.

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5.3 In preparation for a meeting where a community/land rights holders' resolution will be taken, village or administrative area meetings must be held and presided over (or witnessed by) an official of DLA appointed by the relevant Provincial Director of the DLA.

5.4 The purpose of these meetings is to facilitate the adoption of community/land rights holders' resolution and to appoint persons to liaise with the Department on behalf of the community. Depending on the size of the area concerned, one meeting may suffice.

6 Gathering of Preliminary Information About The Community

6.1 The official needs to gather some preliminary information about the nature of existing land rights in the area concerned and ownership of the land. Part of this information may be obtained from the Directorate: Public Land Inventory in the form of maps, aerial photographs and deeds information. Further information must be obtained from key informants who are familiar with the area.

6.2 It may also be useful to engage with informants who are familiar with the dynamics of the area concerned. These may be community members or officials of other levels of government. They may assist in obtaining information on the stakeholders in the community and their relative importance. These informants may also provide information on levels at which important decisions are taken in the community and relations between the various stakeholders. In this gathering of preliminary information, it is necessary that the background information and purpose of the meeting be explained and the roles and responsibilities of the various parties clarified.

7 Initial Meeting With The Stakeholders

7.1 An initial meeting with all stakeholders' groups should be undertaken to explain the purpose and the background to the procedures and the desired outcomes (e.g. time frame, resolutions, legal requirements, equitable involvement of women, benefits). Specific information should be provided on the following:

- The legal status of the land and the obligations of the Minister as trustee or nominal owner of the Minister.
- The land rights and responsibilities of the community.
- The role of the various parties (Minister, rights holders and investor/ developer) in 'back-to-back' lease agreements.
- Who has the right to participate in the proposed meetings and the rules and conduct of those meetings including gender sensitivity.
- It must be explained that whilst decisions regarding land rights should generally be taken by those whose land rights are directly affected by the decision, those affected must in turn have due regard to the interests of the broader community of prospective rights holders and those with reciprocal rights.

7.2 At this meeting the DLA official should explain the Department's tenure policy with respect to long-term occupants of land. These guiding principles of tenure reform come from the White Paper on South African Land Policy.

- Tenure reform must move towards rights and away from permits.
- Tenure reform must build a unitary non-racial system of land rights for all South Africans.
- Tenure reform must allow people to choose the tenure system with is appropriate to their circumstances

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- All tenure systems must be consistent with the Constitution's commitment to basic human rights and equality.
- In order to deliver security of tenure a rights based approach has been adopted
- New tenure systems and laws should be brought in line with reality as it exists on the ground and in practice.

It also needs to be explained that IPILRA (Interim Protection of Informal Land Rights Act,31 of 1996) is a holding mechanism that prevents violation of existing interests in land until new long term legislation is in place.

7.3 The DLA official should develop a strategy for convening the Land Rights Holders' meeting/s (e.g. the number of meetings, time, venue, dates, sufficient notice period, form of publicity, the role each stakeholder will play in the meetings including women, the procedure and proposed rules for the meetings).

8 Land Rights Holders Meeting/s

8.1 The official concerned must start the meeting by explaining the background to the meeting, referring to the issues tabled in the meetings of the stakeholders in paragraphs 7.1 to 7.3.

8.2 The official should ensure that there is agreement among the rights holders on issues in paragraphs 7.1 to 7.3.

8.3 The official should ensure that those present are aware of who is affected by the decision at issue, and who has decision making powers in respect of the decision. The broad principle at issue is that.

- The decision should be taken by a majority of those whose land rights are directly affected by the development decision and that those affected are entitled to benefits accruing from the development
- The decision making process should however take account of the views and interests of other persons with interests on the land, including prospective rights holders and persons who have reciprocal rights and obligations with those directly affected regarding occupation or use or access to the land concerned.

8.4 The official must facilitate the process whereby the community or land rights holders take a resolution regarding the proposed or intended development on their land. The meeting at which the community resolution is adopted may be preceded by a series of meetings at village level depending on the dynamics and the size of each community/ land rights holders' area. The community or land rights holders' resolution must reflect the following

- Identification of land for development.
- How the land is to be made available to investors or developers
- The kind of development preferred on the identified land (Here it may be advisable to invite the investor or developer to present the investment or development proposal)
- Administration of the benefits accruing from the change of land use (The decision should be informed by information on the agency chosen to receive the benefits on behalf of the community or land rights holders and the legal arrangements, including lawyer's trust accounts regulated by agency agreements)
- Distribution of benefits to be accrued. (Specifically the meeting must reach agreement on a project, or list of projects, to be funded from the benefits. This advance agreement is

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important in order to ensure that the funds are disbursed in accordance with the wishes of the community)
- A decision on the compensation or alternative accommodation of land rights holders whose rights are directly affected in the selected area.
- Role of structures (including local government and traditional authority structures) which must be consulted or play a role in the process of implementing the agreements reached.

8.5 The official should oversee the decision to select an interim committee to liaise with the Department, pending the appointment of a more permanent committee. The official should also oversee the nomination of co-signatories to the lease agreement and the agency agreement.

8.6 The official should facilitate agreement on the process to be followed in setting up a permanent committee. In these meetings the views of any objectors need to heard, especially in so far as they may feel that the resolution does not take into account their interests as land rights holders.

8.7 Once decisions on the issues have been taken, all forms relevant to the Interim Procedures must be completed and signed accordingly (e.g. the pro forma land rights resolution adopted at PC of 10 September 1998.) These include the following:

- The Land Rights Holders' Resolution
- The Lease Agreement
- The Agency Agreement

9 Submission to the Minister

9.1 The official must prepare a submission to the Minister giving the background to the community/ land rights holders resolution and making the necessary recommendations for the Minister's approval.

9.2 The documents/ forms referred to in 8.7 and the investor's proposal must be annexed to the submission, if appropriate.

9.3 The legality and validity of the lease agreement:

- The nature of the agency agreement and the trust arrangements for the administration of funds, taking into account the capacity of the community;
- That there is broad agreement among the community on the distribution and use of benefits arising from the project.

9.4 The check list of issues which must be included in the official's report is set out below.

Issues to be covered in the official's report

9.5 What geographical area will be affected by the proposed change or decision? Identify the exact land involved in the proposed development and how the land is to be held by the beneficiaries.

9.6 Is there a sub grouping of people with land rights (including informal land rights) to this specific area? The nature of such rights should be described, for example homestead plots, fields, a share in grazing rights, collection of firewood, building materials, etc. Bear in mind

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the rights of some people currently living outside the immediate area could be affected by the proposed change or decision. (The determination of who precisely should be included in the category 'affected rights holders' should lie with the rights holders themselves. If, at any point, people assert that they are affected by the proposed change or decision, then their views should be taken into account.)

9.6.1 How will the proposed changes affect such rights? If the land is to be used for another purpose, how will the rights of those affected be accommodated? For example will they receive compensation, alternative land, the right to participate in the proposed development, etc?

9.6.2 How have the people affected been consulted? Has the process been fair, inclusive and free from intimidation? What has been their response? Do they agree to the proposed changes? Do they agree to the proposed compensation, alternatives, etc? In this regard, were there viable options for them to consider and choose between?

9.7 Is the area affected the shared property of the bigger group, with no particular sub grouping having exclusive use rights? If that is the case, which are the sub groupings with overlapping and shared rights to the land at issue? Have all these sub groupings been consulted about the proposed change and were representatives of all the sub groupings present when the decision was taken to make the change?

9.8 Does the proposed change potentially create new rights and benefits (for example a housing scheme)? Who will get these new rights and benefits? Will all members of the land-holding group have equal access to the new scheme? If not, how will the beneficiaries be selected? Will the beneficiaries have to contribute to the scheme in some way? If so, in which way? Does this reflect a fair accommodation of the rights of the members of the group which are affected by the proposed changes?

9.9 How will the rights of women be affected by the proposed changes? Do the changes uphold the right of equality set out in the Constitution?

9.10 In assessing whether the decision represents the views of the majority of rights holders the following factors should be recorded:

9.10.1 If the meeting was taken at a general meeting of rights holders, was this the appropriate forum? Were all sectors and sub groupings free and able to voice their concerns in such a meeting? Was it necessary to hold separate meetings of affected stakeholders in order for sections of the community to attend and express themselves effectively?

9.10.2 Was the notice of the meeting effective in ensuring the presence of members of the landholding group at the meeting?

9.10.3 How many people attended the meeting? Were representatives of sub groupings particularly affected by the decision present at the meeting? Were representatives of sub groupings of the wider group present? (for example wards, committees, headmen) A list of the names and status of people who attended in a representative capacity should be annexed.

9.10.4 In the event that there was not a consensus, record the number of people who supported the decision as well as the number of people who opposed it.

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9.10.5 The views of people who opposed the decision must be recorded especially insofar as these are likely to be adversely affected by the decision

9.10.6 If there are people who claim they were not notified of the meeting or the purpose of the meeting, or that they were excluded from meeting, this must be recorded.

9.10.7 It must also be recorded whether the impact of the proposed decision was clearly motivated to the meeting. In particular whether there was a clear and accurate explanation of how existing land rights are likely to be affected and who would benefit from the proposed changes.

9.10.8 Were all those present afforded the opportunity to participate effectively in the meeting and to speak without fear of intimidation?

PN TO FRMGM

9.1 The following signatories will sign the agreement taken by the community on their behalf to give effect to the decision to alienate/ develop the land

9.1.1 Name:.....Capacity.....

Signature:..... Date:.....

9.1.2 Name:.....Capacity.....

Signature .....Date.....

9.1.3 Name:..... Capacity.....

Signature:.....Date:.....

9.2 The following signatories will co-sign the lease agreement on behalf of the community to give effect to the decision to alienate/ develop the land (The parties to the lease agreement are the community, the investor/ developer and the Minister of Land Affairs)

9.2.1 Name:.....Capacity.....

Signature..... Date:.....

9.2.2 Name:.....Capacity.....

Signature:..... Date:.....

9.2.3 Name.....Capacity.....

Signature:.....Date.....

9.3 The following signatories will sign the agency agreement on behalf of the community. (The agency agreement is a trust contract with the agent who will hold and administer the funds for the benefit of the community, following the decision to alienate/ develop the land)

9.3.1 Name:.....Capacity.....

Signature:..... Date:.....

9.3.2 Name.....Capacity.....

Signature:.....Date.....

9.3.3 Name:.....Capacity.....

Signature:.....Date:.....

10 The co-signatories in section 9.1, 9.2 and 9.3 signed on behalf of and with full consent of the Land Rights Holders present or represented in the meeting.

The ..... Tribal / Local/ Community Authority and the ..... Land Rights Holders/

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CERTIFICATE

I .....the dually appointed Investigating Official from the Department of Land Affairs hereby certify that:-

(i) I have attended the meeting of the.....Tribe/ Community/ Land Rights Holders under the chair/leadership of .....convened for purposes of considering this resolution

(ii) the facts set out in the above resolution are to the best of my knowledge, true and correct and this resolution is a true record of the proceedings at the meeting.

(iii) the nature of the rights are .....

Strike out where necessary:

(a) The development will/ will not lead to a change in these rights

(b) Those whose rights are affected have been/ have not been accommodated

(c) There are/ there are no overlapping land rights

(d) New rights & benefits are created/ no new rights & benefits are created

(e) The rights of women have improved/ stays the same/ is worse off because of the development decision

(iv) the signatories affixed their signatures to this document in my presence.

(v) I have to the best of my ability explained the purpose and legal implications of the said resolution to those present and represented at the meeting.

SIGNED ON THE.....DAY OF.....19.....AT.....

.....

OFFICIAL'S SIGNATURE DESIGNATION

NB! SEE ATTACHED ATTENDANCE REGISTER of rights holders attending the meeting

PN FR MGM

ATTENDANCE REGISTER Page ..... of .....

Meeting of----------**.Community/ Tribe/ Land Rights Holders**

Venue:,----------,

Date:----------

No	Name & Surname	Place/ Section	Stand No.	Telephone
1				
2				
3				
4				
5				
6				

ATTENDANCE REGISTER Page ..... of .....

Meeting of----------**.Community/ Tribe/ Land Rights Holders**

Place:----------

Date:----------

No	Name & Surname	Place/ Section	Stand No.	Telephone
1				
2				
3				
4				
5				

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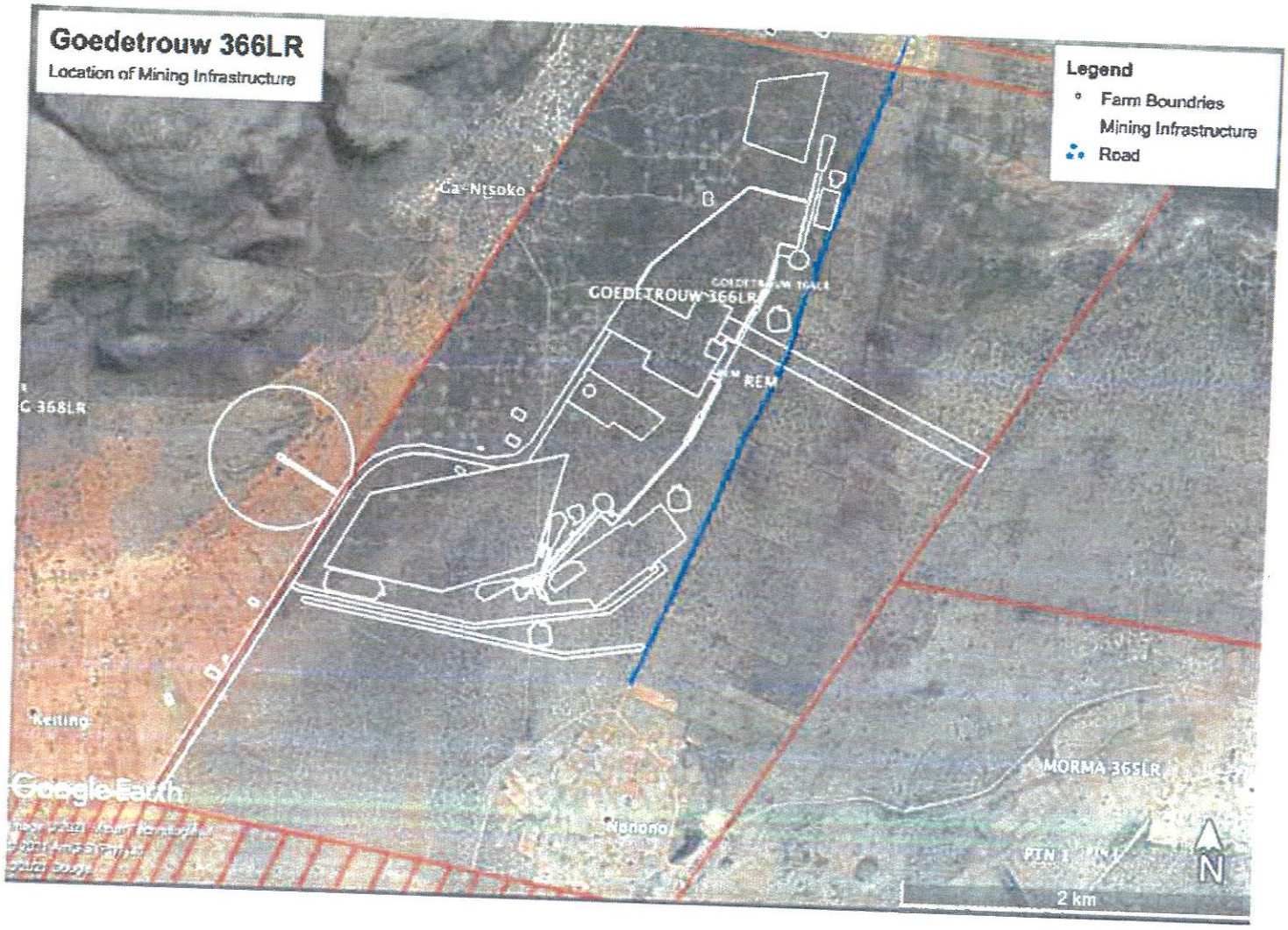
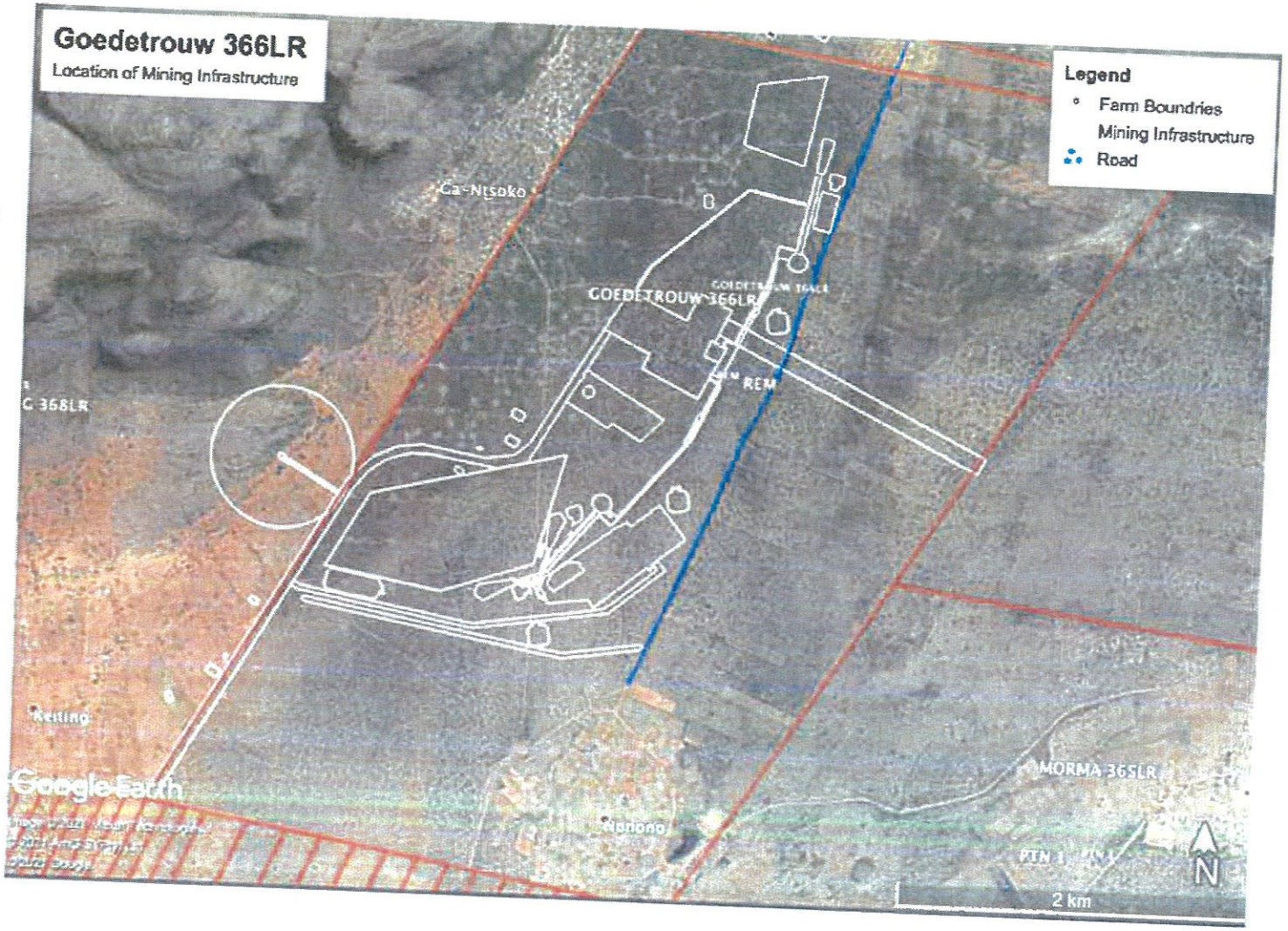
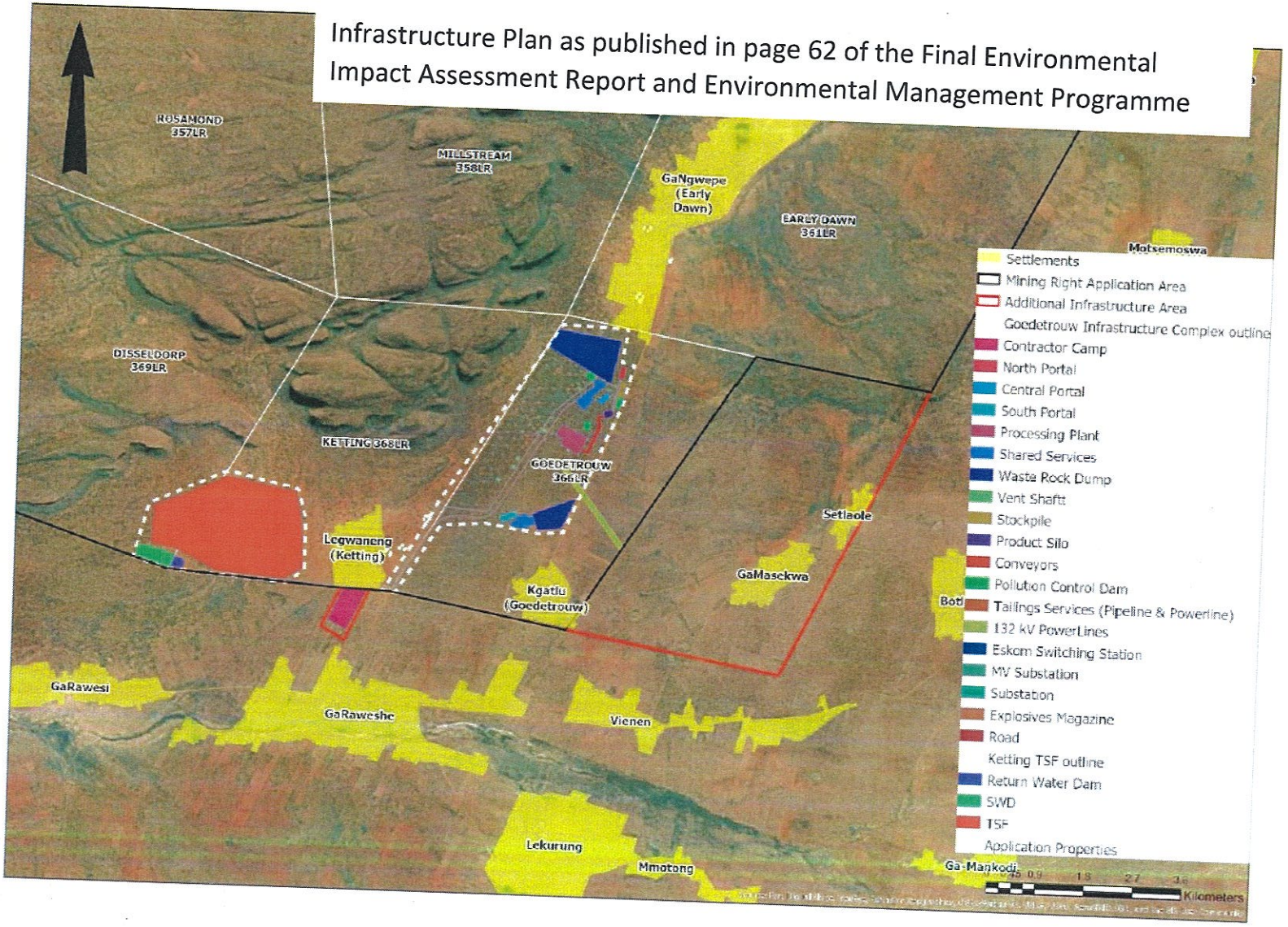
Infrastructure Plan as published by Respondent in Replying Affidavit



Infrastructure Plan as published by Respondent in Replying Affidavit



Infrastructure Plan as published in page 62 of the Final Environmental Impact Assessment Report and Environmental Management Programme



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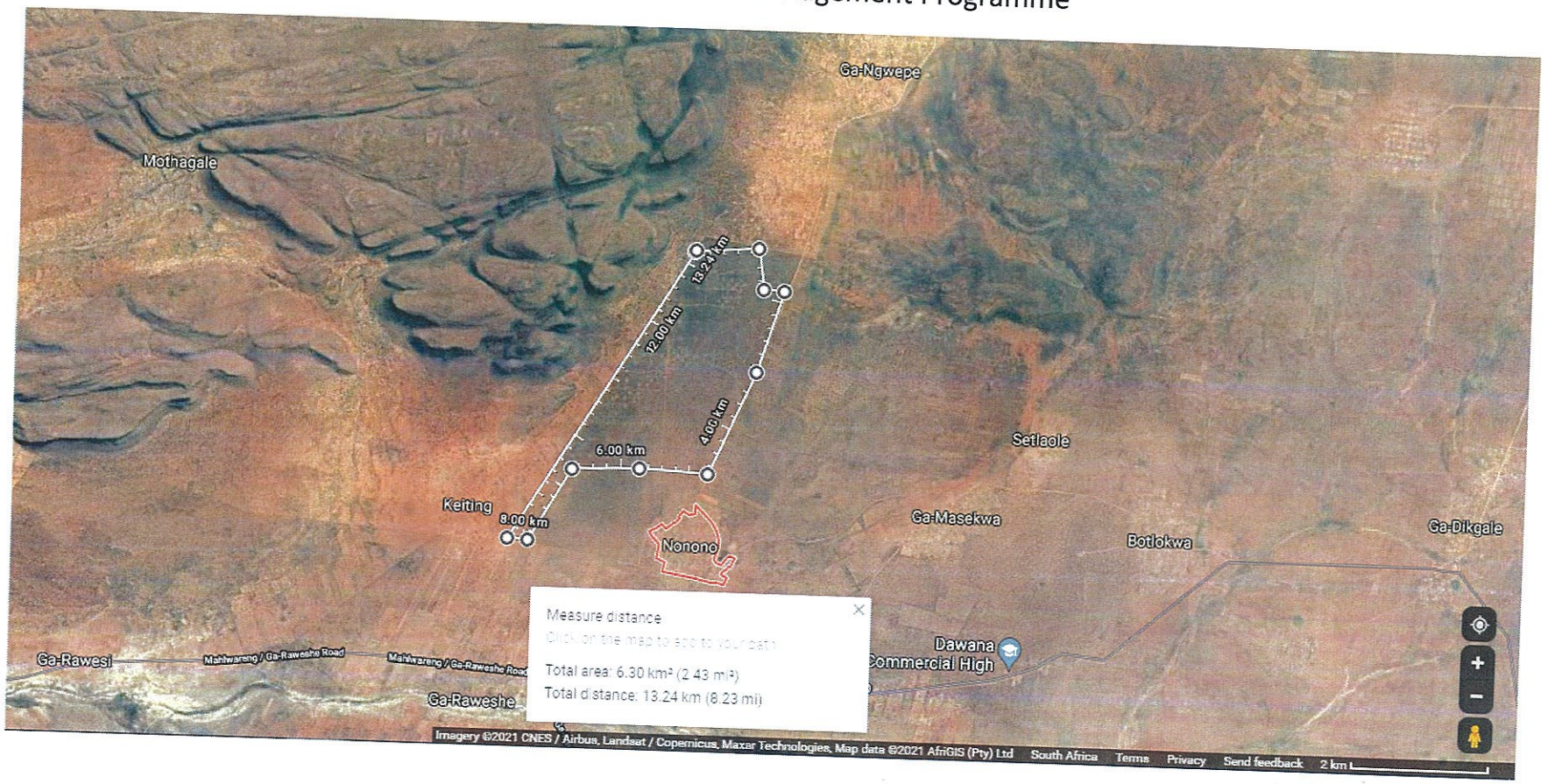
Google Maps Area Calculation using the map in the Final Environmental Impact Assessment Report and Environmental Management Programme



1 km² = 100 hectare

Therefore, 6.30 km² = 630 hectare


LEGEND
A - Main Access Road
B - Mine Access Road
C - Southern Complex
D - Processing Plant
E - Sewage Treatment Plant
F - T Zone Portal
G - T Zone Stockpile
H - Bulk Water Buffer Dam
I - Tailings Facility
J - Return Water Dam
K - Pollution Control Dam (PCD)
L - Main Consumer Sub-Station
M - South Waste Rock Dump
N - Potable Water Treatment Plant
O - Central Complex
P - Central F Zone Portal
Q - Central F-Zone Stockpile
R - North Access Road
S - Overland Conveyer Belt
T - Mine Vehicle Service Road
U - North Super F Boundry Stockpile
V - Northern Complex
W - North Super F Boundry Portal
X - North Waste Rock Dump
WATERBERG OVERALL SITE LAYOUT
EARLY DAWN
361 LR
KETTING
368 LR
GOEDETROUW
366 LR

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Fwd: Notice in terms of section 54 of the MPRDA regarding dispute about access to Goedetrouw 366 LR

Inbox

simon Manamela

Jul 12, 2021, 9:41 PM

to Joseph, Joseph, Lazio, kobopg007, Phuti, me

FYI.

---------- Forwarded message ---------

From: **simon Manamela** <kgabomanaks@gmail.com>

Date: Mon, 12 Jul 2021 at 21:39

Subject: Notice in terms of section 54 of the MPRDA regarding dispute about access to Goedetrouw 366 LR

To: <Azwihangwisi.Mulaudzi@dmre.gov.za>

Dear Mr Azwi Mulaudzi,

I and other residents of Goedetrouw *(AKA* Kgatlu*)* village, herein referred to as Kgatlu Concerned Residents, hereby notify you of the dispute between the Waterberg JV Project (WJV) and members of the Kgatlu community regarding access to our Goedetrouw 366 LR camp used by community members for grazing and other livelihood activities. Although WJV reportedly entered the land on Thursday 8 July 2021, it is only today that someone I sent to the camp confirmed that it is indeed employees and contractors of WJV who have entered the area unlawfully in that a gate and fence were damaged in the process of the mine forcing its way into the camp. Earlier, I was also sent photos of vehicles that are unknown to members of our small community, in the camp.

A further report is when the Chairman of General Council, a governance structure within Kgatlu village, tried to stop WJV to enter the camp with more equipment and vehicles, then he was told where to get off.

In the circumstances, as directly affected residents of Kgatlu village, we call upon you to urgently intervene by convening a meeting in terms of section 54(2) of the MPRDA between WJV and Goedetrouw 366 LR Concerned Residents for engagement in this regard.

Please note, in declaring common cause with the Section 54(7) notice you were in April 2021 given by Mr Johannes Nare of Lehwaneng village, we request that the meeting is convened within seven (7) days of this notice (i.e. by Monday 19 July 2021) as opposed to the 14 days prescribed in Section 54(1). The meeting can also be held **virtually**, given restrictions relating to the COVID-19 pandemic.

Notwithstanding the proposed intervention discussion, we herein demand that WJV be instructed to **forthwith immediately stop with any activities** within the camp and requests that the Regional Manager issues WJV with written notice in terms of section 31L of the NEMA for entering the camp and carrying out the mining-related activity as listed Activity 17 of the EIA Regulations of 2014 (as amended) Listing Notice 2 in contravention of terms and

PN KAM MGM

conditions of the EA as well as notice and consultation requirements contemplated in section 5A(c) and 54 of the MPRDA.

For expedience, please contact me on my mobile numbers 082 324 2550 or Joseph on 082 561 5976.

Please do acknowledge receipt of this email.

Regards,
Simon Manamela

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Prod DEEDS REGISTRATION SYSTEM - PRETORIA
Prepared By : DRS01117 - AMBRAAL, CINDY SUSAN

DATE : 20090428 TIME : 10:33:54.0 PAGE : 1

PROPERTY DETAILS PRINT FOR PORTION 0
FARM NO 366
REG DIV LR

PROVINCE LIMPOPO
PREV DESCRIPTION
DIAGRAM DEED NO A8331/931
EXTENT 1607.6406 H
CLEARANCE BLOUBERG LOCAL MUNICIPALITY
FARM NAME GOEDETROUW

FIRM NR : 999
FIRM NAME : DEEDS OFFICE PRETORIA
FILE NR : PREP
FEE AMOUNT : R .00

NO INTERDICTS

DOCUMENTS	HOLDER & SHARE	AMOUNT	O/P/A	MICROFILM REF	MMDD
K2350/1992RM	SAMANCOR LTD	R0.00		1992 0405 3018	
K243/1998RM	INGWE COLLIERIES LTD			1998 0202 0933	0121
K3419/1992RM	SAMANCOR LTD			1992 0574 2729	
K3420/1992RM	SAMANCOR LTD	R0.00		1992 0574 2781	
K5436/1993RM		R0.00		2004 0493 1103	0407
K5435/1993RM				1993 0855 3864	0407
T9735/1940S				1994 0016 1982	
T9736/1940S				1998 0202 0925	
K1617/1993RM				2008 0672 5310	
K8204/1996RM	RANDGOLD & EXPLORATION CO LTD - RANDGOLD & E	R0.00		2004 0538 3324	1122
V1666/2004	K8204/1996RM			2004 0538 3318	0316
V14625/2003	K5436/1993RM			2003 0701 0950	0610
V8532/1979 9735/940Y					
LR 366				1988 1015 2007	
RELEASED-AREA					

OWNER DETAILS

FULL NAME & SHARE	PURCH DATE	AMOUNT/REASON	O/P/A	IDENTITY	TITLE DEED	MMDD	MICROFILM REF
CHOSHI ABEL					T9735/1940	0627	
0.083333 1/12							
KOBO JONAS MANKOA					T9735/1940	0627	
0.083333 1/12							
MASHAE JOHN PHUTI					T9735/1940	0627	
0.083333 1/12							
MANAMELA JOEL KHABO					T9735/1940	0627	
0.083333 1/12							
RAMOTSEPANE ANDRIES MAFISI					T9735/1940	0627	
0.083333 1/12							
CHOSHI ABEL					T9735/1940	0627	
0.083333 1/12							
KOBO JONAS MANKOA					T9736/1940	0627	
0.083333 1/12							
MATTU CHARLES MASHILO					T9736/1940	0627	
					T9736/1940	0627	

PN KAM MGM

Prepared By : DRS01117 - AMBRAAL, CINDY SUSAN

0.083333 1/12		
MANAMELA JOEL KHABO		
0.083333 1/12	T9736/1940	0627
MAZWAI JOHN PHUTI		
0.083333 1/12	T9736/1940	0627
RAMOTSEPANE ANDRIES MAFISI		
0.083333 1/12	T9736/1940	0627
MAIFO CHARLES MASHILO		
0.083333 1/12	T9735/1940	0627

THE SUM OF THE SHARE TOTALS IS : 0.999996

* O/P/A - O - MULTIPLE OWNER P - MULTIPLE PROPERTY A - MULTIPLE OWNER AND PROPERTY

** Please Note : The information appearing on this printout is furnished for purposes of information only.
For more detailed information, please refer to the registered source documents.

* * * END OF REPORT * * *

PN KAm MGM

CONSTITUTION OF THE CO-OWNERSHIP
OF THE FARM "GOEDGEVONDEN" No. 990,
DISTRICT PIETERSBURG.

W I T N E S S E T H :-

THAT WHEREAS the farm "GOEDGEVONDEN", No. 990, situate in the district of Pietersburg; measuring One Thousand Eight Hundred and Seventy Six (1,876) morgen Five Hundred and Fifty One (551) square roods, is registered under and by virtue of Deeds of Transfer Nos.9735/1940 and 9736/1940 both dated the 27th day of June, 1940, in the names of the following six co-purchasers, namely :-

1. ABEL GHOSHI (deceased) ;
2. JONAS MANKGA KOBO ;
3. JOEL KHABO MANAMELA (deceased);
4. JOHN PHUTI MAGWAI ;
5. CHARLES MASHILO MAIFO (deceased) and
6. ANDRIES MAFISI RAMOTSEPANE,

all of whom are natives, hereinafter referred to as the "REGISTERED CO-PURCHASERS" ;

AND WHEREAS certain Eighteen (18) other co-purchasers, namely :-

1. AARON MEMOREBOLA GHOSHI ;
2. JACK LAMULA MAMATHLOMI (deceased);
3. ESROM NGOAKO NGOEPE ;
4. JAN MABORA MASHAMAITE ;
5. PETRUS MASHIANE MAKGOKA ;
6. FRANS MOROKA MAKGOLA ;
7. SAMUEL THUPETJI PHUKUJE ;
8. JOSEF LESITJA MASEHELA ;

9. ALFRED

9. ALFRED PHOKOANE SEFURU (deceased,,

10. SAMUEL MATOME CHOSHI;

11. ANDRIES SETATI HOPANE ;

12. JACOB THUPELA CHOLO ;

13. TIMSON KEMISHI MACWAI (deceased);

14. SIMON PHEPISHA MANAMELA ;

15. FRANK KETHLARA LAAKE ;

16. SALOME MPATE LESABANE (widow) (deceased);

17. STEFANE POTI NTSOANE (deceased); and

18. JOHANNES MADUME BOSHOMANE

together with the aforesaid six registered co-purchasers contributed towards the purchase price of and the costs of acquiring the said farm in equal shares;

AND WHEREAS the aforesaid six registered co-purchasers hereby irrevocably and solemnly acknowledge the aforegoing arrangements to be true and correct and hereby further irrevocably acknowledge that they hold as registered co-owners as aforesaid the said farm in their joint names on behalf of themselves and as Trustees on behalf of the aforesaid remaining eighteen (18) co-purchasers, each of the aforesaid twenty-four (24) parti being by virtue of the aforegoing the lawful owner of and entitled to a one-twenty fourth (1/24th) share in a to the said farm ;

AND WHEREAS certain arrangements have been concluded by and between the aforesaid twenty-four parties which they wish to have reduced to writing f following purposes, namely :-

(a) To record and place on record the right, title and

interest/...

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interest in and to the said farm of the aforesaid eighteen (18) remaining co-purchasers and to secure for them, their respective heirs, executors, administrators and assigns, in perpetuity their aforesaid respective rights, title and interest in and to the said farm and

(b) To record the terms and conditions of a "CONSTITUTION" whereby and in terms of which the affairs of the said farm shall be controlled and conducted.

N O W T H E R E F O R E :-

THE AFORESAID twenty-four (24) co-purchasers do hereby each with the other mutually and irrevocably contract, bind themselves and agree as follows :-

1. THAT THE said farm is the lawful property of the aforesaid twenty-four (24) co-purchasers, their respective heirs, executors, administrators and assigns, each of them as aforesaid being the lawful owner of and entitled to a one-twenty fourth (1/24th) share in and to the said farm.

2. THAT THE number of co-purchasers shall as aforesaid be twenty-four and shall under no circumstances without the unanimous approval of all of them exceed that number.

3. THAT ALL the co-purchasers (hereinafter referred to as "MEMBERS") shall be under the chairmanship of MARCUS CHOSHI, son of the late ABEL CHOSHI), who shall at all meetings act as Chairman and who shall at all committee and general meetings have a casting vote, and the said Marcus Choshi shall continue to remain in office as

Headman/.....

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Headman and as such to act as Chairman until and unless he be deposed and removed from office by the properly recorded votes of at least sixteen (16) of the members at a general meeting.

4. THAT AN Executive Committee shall be elected consisting of six (6) members and the Chairman, the said Marcus Choshi, which committee shall wherever possible protect the interests of the members and attend to all matters relating to the said farm. It shall further in all matters pertaining to the said farm consider such matters to the best of its ability and honestly, faithfully and diligently make such decisions and pass such resolutions as may be necessary and expedient from time to time subject however to the special proviso that the Committee shall not have power to :-

(a) Amend, alter or vary the terms of this Constitution which may only be amended, altered or varied by a General Meeting;

(b) Agree or consent to the disposal encumbrance or partition of the said farm which may only validly be done by the properly recorded votes of at least twenty-three (23) of the members at a general meeting in favour of a resolution to that effect and subject to the approval of the Minister of Native Affairs.

5. THAT THERE shall be a Secretary and if deemed necessary by the Committee an Assistant Secretary chosen to record the proceedings of all meeting and to attend to all such

6. THAT ALL lands allotted to members shall be of the same size and each member shall accept the land or lands allotted to him by the Committee.

7. THAT ALL residential sites shall be chosen on such portion or portions of the said farm as the Committee

may/.....

05 24 2014 11:24/SI 11:21 P008

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may determine in order to hinder or interfere with the ploughing and grazing on the farm as little as possible. Each member who desires to reside on the farm shall erect his residence on such site as the Committee directs and on such site or piece of land as the Committee may order and subject further to the condition that the Committee may from time to time add to or deduct from the sites presently or in future occupied or in use by its members, including lands, such pieces of land as it may consider necessary, subject to the rights of existing residents which shall be respected wherever possible and subject to such residents being compensated in having to remove their residential sites from one portion of the farm to another at the instance of the Committee.

8. THAT IN THE event of the decease of any of the members his right, title and interest in and to the said farm shall vest in such deceased's lawful heir or heirs, subject however to the condition that the Committee shall have the right to refuse to accept such heir or heirs should he or they, as the case may be, be a person or persons who are deemed to be and in fact are unfit to become members by reason of the fact that such person or persons have a bad criminal record or have in the past or are likely in the future to cause or create any unjustified unrest and dissension amongst the members and residents of the farm generally or for any other reason which may be considered just and proper for such rejection, subject in each case to the right of any aggrieved heir or heirs to take appropriate action in the Court of the Native Commissioner having

jurisdiction/.....

jurisdiction for the necessary redress. In the event of the claim of any heir or heirs having been finally rejected then and in such case another member of the deceased member's family, preferably a male and the next in line of succession shall be chosen by the Committee in consultation with the members of the deceased member's family and failing agreement amongst them the heir or heirs entitled to succeed shall be chosen and determined by the Native Commissioner for the time being at Sochem or other centre having jurisdiction over the said farm, the decision of the said Native Commissioner to be final.

8. THAT ANY member who wilfully disobeys the instructions, order or directions of the Committee or any member causing or attempting to cause any ill-feeling, dissension or trouble of any kind amongst the members and/or residents on the farm shall receive one written warning from the Committee signed by the Chairman and Secretary and by any two duly authorised members of the Committee and should such member continue to carry on the practices complained of the Committee shall have the right to deal with such member in such manner as it considers fit even to the extent of confiscating his share or interest in the said farm and ejecting him therefrom, subject to payment to such expelled member of reasonable compensation to be fixed and determined by the said Native Commissioner. The Committee shall however in all such cases act reasonably and shall very carefully consider the facts of the case and deal therewith justly and in accordance with equity, and any member effected shall have the right to institute such action against the Committee in the appropriate Court of law for such redress to which he may consider himself entitled.

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14. THAT in regard to any improvements which the Committee may deem necessary on or in connection with the farm each member within such reasonable period as may be fixed shall pay his pro rata share of any expense involved, and any member failing to do so shall not if the Committee so decides be permitted to make use of or participate in any way in such improvements until such time as he has paid his pro rata share or is permitted to do so by the Committee subject in each case to the Committee's right to recover such pro rata share as aforesaid.

15. NO MEMBER shall sell, alienate or dispose of or encumber in any way his share or interest in the farm without the written consent of the Committee signed by the Chairman and Secretary. Should any member have a judgment of a Court against him which he is unable to satisfy and should there be any danger of such member's said share or interest being sold in execution of such judgment shall member's share or interest shall immediately revert to the Committee which shall appoint some other member or non-member to take over such share or interest of the member who has such judgment against him and to repay to such member or if necessary to the Native Commissioner or Messenger of the Court the value of such share or interest which shall be fixed by the aforesaid Native Commissioner.

16. SHOULD any question at any time arise as to which of any two or more members of the Committee the shares or interest referred to in paragraph (15) above shall be allotted then such Committee member who shall be permitted to acquire such share or interest shall be decided by the drawing of lots conducted in the presence and under the

PN MGM KAM

10. THAT NO circumcision schools nor any heathen practices which may interfere with the good morals or religous beliefs of the people on the farm shall without the approval of the Committee be allowed, and there shall only be such churches of such denominations on the farm as may be permitted by the Committee provided that such Church or churches shall not be used for any purposes other than religous services of such denomination without the approval of the Committee.

11. THAT NONE of the trees on the farm shall be cut down or destroyed without the Committee's knowledge and consent by any of the members and that all members shall wherever possible preserve and protect the farm.

12. THAT ALL members who have within such period as may from time to time be stipulated by the Committee failed to deposit or pay to the Committee their pro rata shares of any expense for any necessary or useful improvements to the farm or for any other lawful purpose shall be dealt with by the Committee in such lawful manner as it deems fit and may take such action against such member in the appropriate Court of Law for recovery of any share or contributions which may be payable or be imposed.

13. THAT NO member shall be permitted to admit on to the farm and/or keep there any livestock which is not his own bona fide property, ~~-----~~ Committee, and no member shall keep on the farm a greater number of livestock than is permitted by the Committee from time to time, all members to be treated on an equal basis.

14. THAT/.....

PN MGM 1CAM

17. SHOULD ANY TWO or more members have any dispute such dispute shall if the parties concerned so agree be referred to the Committee which shall endeavour to settle such dispute amicably between the two parties or if so agreed upon by the said parties in the form of an Arbitration the decision of the Committee in such case to be final.

18. THE COMMITTEE shall be elected by the vote of the members. The Secretary and Assistant secretary (the latter to act only in the absence of the Secretary) referred to above, shall, subject to the Committee's right to co-opt such officials as is provided for hereunder, be included in the aforesaid six (6) members and such Secretary and Assistant Secretary shall be appointed by the Committee and the Committee shall, should there be no suitable person on the Committee capable of or willing to act as secretary and/or assistant secretary have the right to co-opt another suitable person to act in either or both these capacities, subject however to the condition that neither such co-opted secretary nor assistant secretary shall have any voting powers.

19. A QUORUM for any general meeting shall consist of at least sixteen (16) members and a quorum for any Committee meeting shall consist of at least five (5) members

20. THE COMMITTEE shall convene a general meeting of members every year during the month of August on a date to be decided upon by the Committee to report to the members and to furnish such information and explanations as may be required by members and if a special or extraordinary general meeting be deemed [illegible] shall be/.....

PM MGM KAM

be convened by the Committee at its own instance or written request of at least twelve (12) of the members. The date of all such general meetings shall be fixed by the Committee and publicised at least three (3) weeks prior to the date of such general meetings.

21. ALL COMMITTEE MEMBERS shall from time to time be elected for a period of three (3) years, such elections to take place triennially at the general meeting to be convened as aforesaid during the month of August. The first Committee to be elected shall remain in office until the month of August, 1958, when the next election shall take place and all Committee members shall be eligible for re-election from time to time. In the event of the death or retirement of any Committee member he shall be replaced by the election of another member at any general meeting of members.

22. THE COMMITTEE SHALL appoint one of its members as its Treasurer or if there be no person on the Committee capable or willing to undertake such duties may co-opt some other person to act in that capacity, provided that such co-opted Treasurer shall have no voting powers. The Treasurer shall keep proper and correct books and records of all the financial and other affairs of the Committee and shall deposit to the Committee's banking or building society account all moneys to be made shall be effected the Committee and all payment to be made by cheque or other recognised form after the Committee has authorised such payments. All cheques or other form of withdrawals shall be signed by the Treasurer and counter-signed by the Chairman and Secretary. All monies to be paid to or on behalf of the Committee shall be paid to the Treasurer who shall in respect of each payment to him issue

a proper and official receipt from receipt books to be supplied to him by the Committee. The said banking or building society account shall be conducted in the name of the "GOEDETROUW" BAKONI ASSOCIATION. The Committee may in its discretion pay to the Secretary, Assistant Secretary and Treasurer such remuneration for their services as it may deem adequate.

23. THE COMMITTEE may sue or be sued in any Court of Law in the name of the "GOEDETROUW BAKONI ASSOCIATION" and a resolution of the Committee shall be competent to authorise it to sue or institute other form of legal proceedings or defend any action on behalf of the Committee representing all its members and the members of the Association.

24. IT SHALL be competent for any member at any general special or extraordinary general meeting to be represented by any other person by proxy of power of attorney signed by the absent member concerned in the presence of a Native Commissioner or Commissioner of Oaths.

25. ALL COMMITTEE members shall be given at least ten (10) days notice of all committee meetings unless in cases of urgency when members shall attend immediately upon being requested to do so by the Secretary or Chairman.

26. IN THE ABSENCE of the Chairman at any general or committee meeting [illegible] appoint a vice-chairman to act in his stead and for purposes of that meeting the vice-chairman shall have and perform all the functions which the chairman would possess if present and acting in that capacity.

27. AT THE DEATH or retirement of the present or any future Headman, he shall be succeeded by another headman

PN MGM KAM

to be elected at a general meeting to be convened as soon as possible after the death or retirement of such deceased or retiring headman, and the headman to be elected from time to time shall ex officio act as Chairman in the manner set out above in this Constitution.

27. SIGNATORIES HERETO for any of the abovenamed deceased members shall be deemed automatically to be members of this Association until and unless the Native Commissioner having jurisdiction shall otherwise and at any time thereafter direct.

28. IT IS HEREBY further agreed and the aforesaid six (6) Registered Co-purchasers do hereby irrevocably bind themselves their heirs, executors, administrators and assigns to give to the aforesaid remaining eighteen (18) members or failing any of them their respective heirs, executors, administrators and assigns, transfer in the Deed Registry of their right, title and interest in and to the said farm as soon as they are required to do so and for purposes thereof the aforesaid six registered co-purchasers shall and hereby irrevocably bind themselves to sign and execute all such papers and documents as may be requisite for the aforesaid purposes.

29. ALL ABSENTEE members from the initial meeting of this Association held at Bochem on the 19th day of August, 1950, and personally sign this Constitution or on whose behalf this Constitution may be signed shall be deemed to have voted for the adoption of this Constitution as if they had attended the said meeting and personally

voted/.....

voted for the adoption [illegible]

30. THE SALE or purchase of beer or any other type of intoxicating beverage on the farm is strictly forbidden and no person on the farm shall under any circumstances brew or have in his possession skokiaan or thronthoa-thoa or other similar forms of prohibited or undesirable beverages.

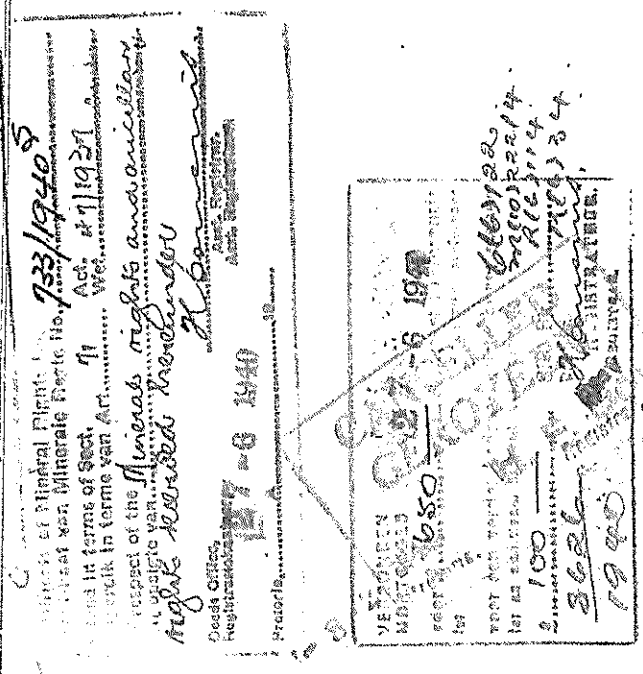
IN WITNESS WHEREOF we, the undersigned, members of the aforesaid Association, have hereunto set out hands at BOCHUM on this the 19th day of August, 1955.

AS WITNESSES :-

1. .....

2. .....

PN MGM



AFSKRIF UITGEREIK--DATUM
COPY ISSUED- DATE..... 22-8-1979
AANSOEK NR.
APPLICATION NO.... 119.532/79

LUNNON & TINDALL,
Solicitors,
Notaries and Conveyancers.

CHURCH SQUARE,
PRETORIA.

Deed of Transfer, No. 9735 1940

(BY VIRTUE OF A POWER OF ATTORNEY.)

Be it known unto all whom it may concern:—

THAT WILLIAM HENRY TINDALL ASST.

appeared before me, Registrar of Deeds for the Transvaal, he being duly authorised thereto by a power of ~~attorney~~ substitution dated the 3rd ---------- day of July, 1935, ----- and drawn up at ~~Johannesburg, and granted to him by~~ PRETORIA, and granted to him by WILLIAM ALFRED TINDALL, he acting by virtue of a power of attorney dated the 23rd day of April, 1919, drawn up in JOHANNESBURG and granted to him by -

HENRY CRAWFORD BOYD and CHRISTIAN MEINTJES,

in their capacity as two of the Directors of the TRANSVAAL CONSOLIDATED LAND AND EXPLORATION COMPANY, LIMITED (hereinafter referred to as "the Company"), acting by virtue of a Resolution passed at a Meeting of the Board of Directors of the Company, held at Johannesburg, on the 23rd day of April, 1919, , a true copy of which resolution and which power of attorney have this day been exhibited to me.

PN MGM KAM

And the appearer declared that the Company had truly and legally sold, and he, the appearer, in his capacity as attorney aforesaid, did by these presents cede and transfer in full and free property to and on behalf of :-

1. ABEL CHOSHI,
2. JONAS MANKGA KOBO,
3. JOEL KHABO MANAMELA,
4. JOHN PHUTI MAGWAI,
5. CHARLES MASHILO MAIFO and
6. ANDRIES MAFISI RAMOTSEPANE,

all natives,

their heirs, executors, administrators or assigns :-

A one half ($\frac{1}{2}$) share of and in the farm "GOEDETROUW" No. 990, situate in the district of Pietersburg (formerly No. 1365, district Waterberg);

Measuring one thousand eight hundred and seventy six (1,876) morgen, five hundred and fifty one (551) square roods;

Extending as Deed of Grant No. 7581, with diagram relating thereto, made in favour of Cornelis Johannes Petrus Roetz on the 27th day of March, 1871, and several subsequent Deeds of Transfer, the last of which, No. 1503/1892, made in favour of the Transvaal Consolidated Land and Exploration Company, Limited, on the 13th day of June, 1892, will more fully point out;

PN MGM KAM

Cert. Bk. fols. 3 + 12.
D/A. mp Dp. 6399/19
M Sub " " 9469/35
This farm is not surrounded by land owned by non-natives.

WHEREFORE the appearer, in his said capacity, renouncing all the right and title which the Company heretofore had to the premises, acknowledged and declared the Company to be entirely dispossessed of, and disentitled to the same; and that by virtue of these presents the said :-

1. ABEL CHOSHI,
2. JONAS MANKGA KOBO,
3. JOEL KHABO MANAMELA,
4. JOHN PHUTI MAGWAI,
5. CHARLES MASHILO MAIFO, and
6. ANDRIES MAFISI RAMOTSEPANE,

all natives, their

heirs, executors, administrators or Assigns, now and henceforth shall be entitled thereto, conformably to local custom; moreover promising to free and warrant the property thus sold and transferred and also to clear it from all encumbrances and hypothecations according to law—Government, however, reserving its rights—and finally acknowledging that due provision has been made for payment of the purchase consideration amounting to :-

ONE THOUSANDTHREE HUNDRED POUNDS (£1,300)

IN WITNESS WHEREOF, I, the said Registrar, together with the appearer, *q.q.*, have subscribed to these Presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE AND EXECUTED at the Office of the Registrar of Deeds at Pretoria, Transvaal, on the 27th day of the month of June, in the year of our Lord One Thousand Nine Hundred and FORTY.

In my presence :

W. H. Tindall
q.q. his Principal.

K. Cousins.
Assistant Registrar of Deeds :

Registered in the Register of PIETERSBURG FARMS, kept at Pretoria, Book IIIa, folio, 1363 on the above date.

I do not think so - but transfer of other half was lodged by Maclutosh, Crow - Jaggelhause

PN MGM KAM

and specially subject to the following reservations and conditions in regard thereto in favour of the Company:

(1) The Company reserves and retains the full free and sole right and interest in and to all minerals, mineral substances and metals, oils, precious stones and coal, on in and under the said property, without any exception together with the sole right to deal with, alienate and dispose of the same at will.

(2) The Company reserves and retains the sole and exclusive rights to prospect, exploit and mine for such minerals, mineral substances and metals, oils, precious stones and coal at any time on, in and under the land, and to deal with and turn to account, alienate and dispose of such rights or of such minerals, etc., from time to time at pleasure.

(3) The Company reserves and retains the right to the use of all water on or connected with the said property necessary for prospecting and/or mining purposes, with the exception of any water from any wells or boreholes sunk by the Transferee and of the surface water stored in any dams constructed by the Transferee prior to the commencement of any prospecting or mining operations by the Company.

(4) As far as possible the Company shall not interfere with the crops standing at the commencement of any prospecting operations upon the property, but should such interference be unavoidable, of which the Company shall be the sole judge, the Company shall compensate the Transferee for all damage caused by such operations to the Transferee's then standing crops, the amount of such compensation, failing mutual agreement, to be submitted to arbitration in the usual way.
At the termination of prospecting operations all shafts and other open places made by the Company shall be properly filled up or fenced in by the Company at its own expense.

(5) The Company reserves and retains the right to take any of the land it may from time to time require for the erection of buildings, works, machinery, and dwelling houses; for depositing sites for ore and/or tailings; for the storage of water and for all other purposes directly or indirectly connected with prospecting, exploiting or mining on the said land; the land so taken shall be re-transferred to the Company at its expense, and upon re-transfer it shall pay to the Transferee in respect of any such area a price to be mutually agreed upon, provided that if any dispute shall arise as to the price to be so paid the same shall be submitted to arbitration in the usual way. It is, however, distinctly understood that in the event of any dispute as above arising the arbitrator or arbitrators shall consider and decide upon only the agricultural value of any land which the Company may desire to re-take, which agricultural value shall be taken to be in no way affected by the value of the mineral rights of the property.

(6) The rights to minerals reserved by the Company shall include all such rights as under the Precious and Base Metals Act, 1908 (Transvaal), or any other Act, appertain to the holder of mineral rights, but the Transferee shall, in the event of proclamation for gold, be entitled to all such rights as under the said Act appertain to an owner of the surface rights.

(7) The Company shall have full right of way from the place of such prospecting, exploiting or mining, to the nearest Government road or highway, and also to the nearest convenient point on any neighbouring railway line. Should there be any road or track in existence on the property reasonably convenient for these purposes the Company shall use such road or track, but should there be no such reasonably convenient road or track the Company shall have the right to make and use such a road or track, placing and maintaining gates in any fences which the road or track may pass through.

(8) In the event of the Company, or its Successors in Title, desiring to waive its title to all the rights to minerals reserved by it and the rights attaching thereto as set forth and described in Conditions 1 to 7 above, the Transferee or their Successors in Title shall, when called upon by the Company or its Successors in Title, immediately take transfer of all such rights.

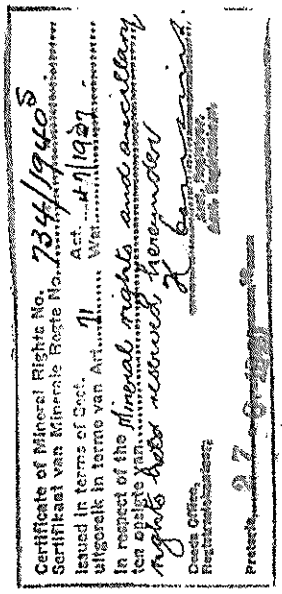
A N D subject, further, to such conditions as are mentioned or referred to in the said Deeds of Grant and Transfer.

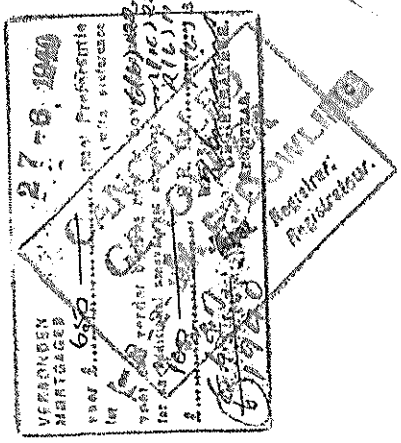
- WHEREFORE -

PN MGM KAM

Prepared by me,

CONVEYANCER.





9736

DEED OF TRANSFER No. 1940

By virtue of a Power of Attorney.

KNOW ALL MEN WHOM IT MAY CONCERN :

T H A T ERNEST JAMES TURNER appeared

before me, Assistant Registrar of Deeds of the Transvaal, he the Appearer being duly authorised thereto by a Power of Attorney dated the 19th day of March, 1940, drawn up at JOHANNESBURG and granted to him by

WALTER MARTIN BERLEIN and BERTIE MOSES in their capacity as two of the Directors of the TRANSVAAL AND DELAGOA BAY INVESTMENT COMPANY, LIMITED, being duly authorised thereto by virtue of a Resolution of the Directors of the said Company passed at JOHANNESBURG, on the 15th day of March, 1940,

which/

PN

MGM Kam

MGM 6

Request to confirm rumours

Inbox

Aubrey Langa Thu, Jul 8, 10:03 PM

to mMgudlwa, allen.reid, Joseph, simon, Ramarokaedward, shula, Motlanalo, Ghogha, Thobek

Dear Mr Allen Reid,

I just received a call from Mr Nare Senosha of Lewaneng village that Waterberg JV Project has commenced with mining-related activities at the area approved to place surface infrastructure. Please confirm if the rumour is correct as Mr Senosha and other community members are interested in knowing whether their environmental and administrative rights are violated by the rumoured activities. As you may be aware through the appeal documents sent, I have a special power of attorneys to represent Mr Nare Senosha and others regarding assertion and vindication of the constitutional and statutory rights. As you are further aware, I have legal standing in terms of the NEMA Section 32.

As you are furthermore aware, in terms of the MPRDA Section 25(2)(d) and Maccsand Constitutional Court judgment precedent, all requisite authorizations, licenses, permits, permissions, and consents must be in place prior to a mining right holder commencing with ming and mining-related activities as Activity 17 of the NEMA EIA Regulations Listing Notice 2 of 2014 (as amended in April 2017). Waterberg JV Project is yet to obtain consent to change the use of the approved infrastructure area from agricultural land use to mining land use. As the land in question is communally and informally owned owing to the apartheid system, IPILRA remains the land-use authority not repealed by the SPLUMA. In terms of SPLUMA Section 58 read with Section 26, illegal land use is criminalized.

In the circumstances, your client (Waterberg JV Project) is requested to:

1. Provide us with notices given to the DMRE, the DALRRD, and the Blouberg Local Municipality that it will be commencing with mining and mining-related activities if the notices were given.

2. Give an undertaking that it will not commence with any mining or mining-related activities prior to all authorizations being granted. We are guided by the attached judgment of the High Court of South Africa in requesting this undertaking.

Should no undertaking be received before the closing of business response on Tuesday 13 July 2021, Mr Nare Senosha has requested me to instruct attorneys to launch an urgent interdict application in a competent court, without any further notice to your client. In such an event, punitive costs will be sought against your client.

Will await your response.

PN KAM MGM

Regards,

Aubrey Langa

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MGM 7

WATERBERG JV RESOURCES PTY LTD

Waterberg JV Resources (Pty) Ltd
Reg. No: 2014/033764/07

1st Floor, Unit 1
Rosebank Terrace
25 Sturdee Avenue
Rosebank, Johannesburg 2196

PostNet Suite No. 81
Private Bag x12
Rooseveltpark, 2129
Phone: +27 11 214 7800
Facsimile: +27 11 447-1000

Kgatlu Community
Goedetrouw Farm

KGATLU COMMUNITY / WATERBERG JV RESOURCES (PTY) LIMITED

1 We refer to the exchange of correspondence dealing with the proposed interim agreement for early works. During the interim agreement a detailed long-term surface lease agreement and Community jobs, training and business opportunities will be discussed.

2 What follows is a proposed letter agreement that can be entered into between us to concretise the progress made during the said meeting. The writer is duly authorised to sign this agreement on behalf of Waterberg JV Resources Proprietary Limited ("Waterberg") and Platinum Group Metals (RSA) Proprietary Limited ("the Company"). If acceptable, we would request that your authorised representative/s sign same.

Financial Support to the Community

3 During the term of interim access arrangement described herein, Waterberg agrees to provide support to the Community of up to R1 million for the payment of appropriately qualified and experienced experts. Such experts shall be selected by the Community and approved by Waterberg (which approval shall not be unreasonably withheld), for the purpose of understanding and mitigating certain impacts of the mine on the Community or to maximize the benefits of the mine to the Community. The approved experts would report to the Community and assist with interaction with the mine. Waterberg would pay invoices for actual work completed by approved qualified experts directly.

Mine Engagement on Surface Infrastructure

4 Waterberg, through the Company as manager, agrees with the KGATLU Community that they shall engage on a detailed discussion with respect to mine infrastructure positions, in a climate of mutual respect and with the objective of maximizing the value of the project for all stakeholders. The mine plan infrastructure positions will be explained by the mine and the Community will be

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MGM KAM

provided the opportunity to make practical solutions to minimize the impact on the land use, while maintaining a practical mine design before and during the mining use and to facilitate environmental rehabilitation. The parties record it is the Community's desire to reduce the mine footprint and parties will look for ways to practically and reasonably do this.

Community to Withdraw Mining Right Appeal and Suspend EA court Challenge

5 In consideration of the positive working environment and as a practical matter for focus on the co-operative effort, the KGATLU Community agrees to withdraw the Mining Right appeal and to suspend the court challenge to the environmental authorisation.

Early Works Surface Works Short-Term Permission

6 In consideration of a surface access arrangement on the terms below the Community allows the Company and Waterberg interim access to the areas outlined in Schedule A for early works associated with the mining work program. This will be an interim arrangement whilst the negotiations are on-going for the long-term surface lease agreement. The terms of the interim access arrangement are as follow -

6.1 **Compensation** – Initial Payment of R200,000 payable on signature of this letter agreement by the parties and R100,000 per month after the 1st month, i.e. on 1 August 2021 and monthly thereafter.

6.2 **Term** – Commencing 1 July 2021 and enduring until cancelled in terms of 5.4 or until a long-term lease is concluded between the parties or until the expiry of 6 months from the commencement date.

6.3 **Area**: As outlined in Schedule A ("Interim Access Area")

6.4 **Cancellation:** May be cancelled by the Company with 3 months written notice.

6.5 **Environmental Rehabilitation:** This aspect will be governed by DMR standards and secured by a financial guarantee in accordance with mining right legislation, and subject to formal closure certificate from the DMR.

6.6 **Community Management and Input Through a Representative:** Access will be provided for a Community member to the work sites for regular reporting by a designated representative, with safety briefing and notice, escorted by a Company representative for Mine Health and Safety reasons. A Community member will be designated to provide regular input on Mine decisions and management at Monthly Mine Management meetings.

6.7 **Reporting**: Waterberg will report to the Katlu Environmentalist on work completed and any environmental issues on a monthly basis in a written report and will remain in regular

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communication. The Community shall also provide the Company with a monthly report of any issues which it wishes to raise for discussion. A monthly forum meeting will discuss any issues directly, in a climate of mutual respect.

6.8 **Land Protection, Camps Housing and Security of Tenure:** The Interim Access Area will not be used for housing or camps. The Company will, as practical and appropriate, control access to the Interim Access Area and keep strict records of persons allowed to access the Interim Access Area or accessing the nearby areas for the Company or Waterberg. No permissions will be granted for residing in the Interim Access Area. This is done in order to adhere to the Mine Health and Safety Act and Regulations. The Mine will ensure that the Mining Right and the current surface rights ownership maintain integrity. The detailed surface rights agreement will include this principal.

Co-operation and Good Faith

7 The parties to this letter agreement agree and acknowledge that a climate of mutual respect and direct engagement is required between them. The objectives of future engagement are a positive dialogue to maximize the value of the project for all stakeholders including the Community, Waterberg, the local and provincial governments and South Africa as a whole. The parties hereto agree to engage directly in writing before resorting to regulators or court to settle issues between them. The Mine will abide by equity holdings as required by law for the Mining Right.

Yours faithfully

Mlibo Mgudlwa
Vice President
Platinum Group Metals (RSA) (Pty) Ltd.
1st Floor, Rosebank Terrace| 23-25 Sturdee Avenue | Rosebank, Johannesburg | 2196
(mobile) +27 82 859 4453| (main) +27 11 214 7800 | (fax) +27 11 447 1000
(email) mmgudlwa@platinumgroupmetals.co.za | (web) http://www.platinumgroupmetals.co.za

PLATINUM GROUP METALS

Representing: Waterberg JV Resources Proprietary Limited and Platinum Group Metals (RSA) Proprietary Limited
Date: 12 July 2021
Signed and Agreed

Name and Representing: **KGATLU COMMUNITY**

Date:

MGM KAM

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Description of proposed Early works.

1. *Temporary* access road

   Road access to the early works area and drilling positions will be constructed as shown on the map. The access road will not be a permanent road.

2. Geotechnical drilling

   53 Geotechnical holes will be drilled to investigate the geotechnical properties of the rock mass. This work is needed to enable the mining engineers to finalize the portal and decline designs.

3. Early works area.

   For the Waterberg JV to prepare for the construction of the portals an area of 24 hectares will be fenced off.

4. Excavation of Portals

   Excavation of the South and Central Portal areas for geotechnical examination and work, into rock – two areas of approximately 230m by 100m box cuts.

5. Consultation for bulk electricity supply.

   Consultation with TDX Power and Eskom needs to be scheduled in order to finalize the electrical power line routes, servitudes and EIAs to the proposed mining infrastructure.

6. Consultation for bulk water supply.

   Consultation with the Waterberg JV team and appointed consultants and engineers needs to be scheduled to finalize water pipelines and water supply to the mine.

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MGM

PN IGAM MGM

MGM 8

Aubrey Langa <langaaubrey1@gmail.com> Fri, Jul 16, 8:07 AM (13 days ago)

to allan.reid, mMgudlwa, Azwihangwisi, Tebogo, Thabo, buang.mokate, vuyelwa.siyeka, Ramai

Dear Mr Allan Reid,

Please note the forwarded email, in which your email address is incorrectly spelled and thus I assume that the email did not reach you.

I take am opportunity to add on what is stated in the email and to update you on reaction to the development at Goedetrouw 366 LR and Ketting 368 LR farms:

1. Yesterday, Thursday 15 July 2021, the Senosha family of Lewaneng village in Ketting 368 LR informed me that WJV has trespassed into the family's farming plot and conducted activities incidental to mining. The trespass charge is based on the fact that WJV has not given the family any notice envisage in terms of the MPRDA Section 5A(c) and has not consulted with the family as contemplated under the MPRDA Section 54 and the IPILRA Section 2(4) pursuant to obtaining the family's consent in terms of customary law and the IPILRA Section 2(1) to be deprived of their possession of their plot. As background, please note that one of the family member, Mr Johannes Nare Senosha, in his capacity as a community leader, has in March 2021 given Mr Azwihngwisi Mulaudzi (copied in this email) a notice in terms of the MPRDA Section 54(7) in which dispute relating to a similar conduct is internally resolved in a mediation process led by the latter. As during a protected protest action WJV was given a copy of the notice invoking Section 54 dispute resolution mechanism, Mr Johannes Nare Senosha and his family are of the view WJV and the Regional Manager are undermining the Section 54(7) mechanism.

2. In the circumstances, I am instructed to demand that WJV immediately stop any mining and mining-related activities carried out in contravention of the MPRDA Section 25(2)(d) and 54(7) read IPILRA Section 2.

3. Further, that WJV is once again, as it was requested in the Memorandum of Grievances and Demands handed over during the protest action, to facilitate intervention of the Regional Manager. Attention is drawn that the demand in 2 above triggers in peremptory terms (in terms of the MPRDA Section 54(1)(a)) WJV's responsibility to seek intervention of the Regional Manager. So, the requirement of WJV to facilitate a convening of a Section 54(2) meeting with the Regional Manager is no longer an optional task.

4. The Senosha family and associates are prepared to seek an amicable solution to the dispute but under the procedural safeguards provided in terms of MPRDA and the IPILRA.

It will be appreciated if we hear from you before close of business on Tuesday 19 July 2021.

Regards,

PN KAM MGM

Aubrey Langa

---------- Forwarded message ---------
From: **Aubrey Langa** <langaaubrey1@gmail.com
Date: Mon, Jul 12, 2021 at 7:33 PM
Subject: Call to address unlawful conduct in terms of the MPRDA Section 54(7) relative to PTM's access to Goedetrouw 366 LR and Ketting 368 LR farms
To: Azwihangwisi Mulaudzi <Azwihangwisi.Mulaudzi@dmre.gov.za>, Tebogo Mangaba <Tebogo.Mangaba@dmre.gov.za>, <mMgudlwa@platinumgroupmetals.co.za>, <allen.reid@cdhlegal.com>, Thabo Mokoena <tibosi@yahoo.com>, Thabo Mokoena <Thabo.Mokoena@dmre.gov.za>, Ghogha Margaret <margaret.ghogha@gmail.com>, Matome Kapa <mkapa@cer.org.za>, Thobeka Gumede <tgumede@cer.org.za>, <shula@nkuzi.org.za>, Tshepo Fokane <fokanet@ardt.org.za>, Constance Mogale <constance.mogale@gmail.com>

PN KAM MGM

MGM9A

Nyoffu Attorneys
JUSTICE IN OUR HANDS

POSTAL ADDRESS: PO BOX 1950
MOKOPANE
0600

PHYSICAL ADDRESS: NO. 70 THABO MBEKI STREET
OFFICE NO. 5 FOSCHINI BUILDING
MOKOPANE
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Office Tel: 015 491 1196
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FAX NUMBER: 015 491 1193
EMAIL ADDRESS: sjnyoffu@gmail.com
WEBSITE: www.nyoffuattorneys.co.za

27TH JULY 2021

YOUR REF: UNKNOWN
OUR REF: CIV 0016/21

CLIFFE DEKKER HOFMEYR INC
JOHANNESBURG

"Per Email"

Sir/Madam

Re: Undertaking to stop unlawful occupation and exercise of mining right

1. We act on behalf of Goedetrouw 366 LR Concerned Residents, Lewaneng Traditional Community Representative Body, Ga-Ngoepe Traditional Community Representative Body, and Mining and Environment Justice Community Network of South Africa ("MEJCON-SA")("our clients", hereafter) who are affected by Waterberg JV Resources (Pty) Ltd ("WJV") mining project.

2. Our understanding is that WJV is your client and that a member of our client, Mr Aubrey Langa, has recently communicated with you regarding WJV project. In the latest correspondence your client was asked to give the same undertaking requested herein by 19th July 2021. We have been instructed yesterday on Monday, 26th July 2021 and advised that you be given an indulgence to within 24hrs engage with us.

3. We are instructed to formally engage with WJV as Attorneys of record, than was previously the case when WJV was engaged in the main by the following members of our clients namely Mr. Kgabo Simon Manamela and Mr Johannes Senosha, in addition to Mr Aubrey Langa.

4. Our understanding is that WJV has recently unlawfully:

   4.1. Entered Ketting 386 LR farm and, amongst other things, unlawfully interfered with farming plot used by the Senosha family, of which Mr Johannes Senosha is a member, by carry out within the plots activities incidental to mining. The Senosha family was neither given a written notice nor consulted, as contemplated in terms of section 5A(c) and 54 of the Mineral and Petroleum Resources Act ("MPRDA"). In reaction our client has since the past week attempted to reach out to WJV by sending to you an email and further recently held a meeting with representatives of the WJV in

the presence of the South African Police Services.

We are now instructed to engage WJV formally, through you.

4.2. Entered and is presently occupying and using a parcel of land in Goedetrouw 366 LR farm for mining and mining-related activities, apparently prior to having meaningfully consulted with the lawful communal occupiers of the land.

Accordingly, our understanding is that one of the lawful occupiers of the land, Mr Simon Phuti Manamela, immediately confronted a representative of WJV upon finding that the latter had apparently already entered the land and was busy establishing itself.

Subsequently, as the chairman of a community representative structure of the residents of Kgatlu village, Mr Simon Phuti Manamela also opened a criminal case against WJV on behalf of the residents.

However, the concern is that WJV is continuing with the unlawful occupation of the land as the community has not yet given it permission based on meaningful consultation, and residents of Kgatlu including our clients are kept in the dark by Kgatlu leadership as to why the WJV is allowed to continue with the unlawful occupation and use of the land for mining and mining related activities.

Consequently, Mr Kgabo Simon Manamela:

4.2.1. who drove from Gauteng Province to Kgatlu on family bereavement, also took an opportunity to ask questions and to see and take pictures of the invaded land and the unlawful activities at the land; and

4.2.2. became gravely concerned about the environment owing to irreversible clearing of vegetation and deforestation he observed at the land.

4.3. Consent to enter the land for mining and incidental activities seems not to have been obtained also from the landowner, who is arguably the Minister of Agriculture, Land Reform and Rural Development.

This is because officials of her department has not yet contacted the known leadership of Kgatlu about having been given a written notice by WJV that it intends commencing with mining and incidental activities.

4.4. Mr Johannes Senosha and Mr Arios Ramoroka are also aggrieved that WJV is ignoring the internal dispute resolution mechanism in terms of section 54(7) of the MPRDA invoked, contending that historical compensation payment

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PN

d'sagreements are resolved and potential future compensation liability is deal: with prior to commencement with mining and mining-related activities.

5. In the circumstances, our instructions are that WJV's gives our client an undertaking that it has stopped with the unlawful conduct and has begun with activities to vacate the land in question, within 24hrs (by 16h00 on Wednesday 28th July 2021).

6. Further, that should no response be received from WJV, we are instructed to urgently approach a competent ccurt for appropriate relief without any further notice to you.

7. We are awaiting WJV's response.

Regards
NYOFFU ATTORNEYS

S.J NYOFFU

PN MGM

MGM 9B

CDH
CLIFFE DEKKER HOFMEYR

INCORPORATING
KIETI LAW LLP, KENYA

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Your Reference	CIV0016/21
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Direct Telefax	+27 11 562 1522
Direct Email	allan.reid@cdhlegal.com
Date	28 July 2021

Attention: S Nyoffu
By Email: sjnyoffu@gmail.com

Dear Sir

UNDERTAKING TO STOP UNLAWFUL OCCUPATION AND EXERCISE OF MINING RIGHT

1. We are in receipt of your email and letter of 27 July 2021 and confirm that we act on behalf of Waterberg JV Resources (Pty) Limited ("**Waterberg**").

2. Our client is somewhat confused by the descriptions of your various clients. Waterberg has no knowledge of who the " Goedetrouw 366 LR Concerned Residents" are, as the Kgatlu Community of the Farm Goedetrouw is in direct engagement with our client and the parties already have a further meeting scheduled. In any event, this community is already legally represented by Messrs Ramphele Attorneys and previously by the Lawyers for Human Rights. On 16 January 2020 our client concluded a Letter Agreement on Stakeholder Working Relationship with the Goedetrouw Community. This Letter Agreement established channels for open and meaningful communication between Waterberg and the Community. It also provided for payment of an amount of R1,196,256.00 to the Community *inter alia* and "*primarily to give the Community the capacity to engage consultants and advisers to assist the Community in planning, training, education improvement, local infrastructure improvement and needs assessment, in order to define and improve the deliverables contemplated in the Co-operation Agreement*".

3. Similarly, the "Lewaneng Traditional Community Representative Body" is unknown to Waterberg. This community is resident on the Farm Kettirg, the owners of which are represented by Mr Stevens of

PN MGM

Werksmans Attorneys with whom our client is liaising in regard to the renewal of a surface lease agreement which will be concluded shortly. A similar Letter Agreement on Stakeholder Working Relationship was concluded with the Ketting Community, on 5 September 2019. Pursuant thereto, Waterberg paid R1,1 million to the Community "*primarily to give the Community the capacity to engage consultants and advisers to assist the Community in planning, training, education improvement, local infrastructure improvement and needs assessment, in order to define and improve the deliverables contemplated in the Co-operation Agreement ...*".

4. The "Ga-Ngoepe Traditional Community Representative Body" is also unknown to Waterberg, but insofar as it may be a group resident on Early Dawn which holds itself out as separate from the Early Dawn Community, such group is also already represented by attorneys Richard Spoor Inc.

5. Waterberg denies that the Environment Justice Community Network of South Africa will be negatively affected by the Waterberg Mining Project and queries its involvement in and relevance to this matter.

6. Our instructions are that Mr Aubrey Langa is not from the host area at all, lacks local knowledge of events and does not hold a mandate from the legitimate stakeholders, and further that Waterberg will engage only with such legitimate stakeholders and their existing legal representatives. We hold no mandate to respond to communications from Mr Langa.

7. In regard to the allegations contained in paragraph 4.1 of your letter under reply, we advise that Waterberg did not enter the Farm Ketting for purposes of mining or matters incidental thereto. It was in fact there to insert a peg to identify a water borehole which requires repair for the benefit of the Ketting Community. Waterberg has written to the local authority for consent to proceed with this repair and is awaiting authorisation. This did not interfere with the farming plot used by the Senosha family. Our client also entered Ketting to provide a front-end loader to close graves, at the request of the Ketting Community.

8. In regard to the allegations in paragraph 4.2, we are instructed that our client has complied fully with the requirements of section 5A of the Mineral and Petroleum Resources Development Act, 2002 ("MPRDA") relating to access to Goedetrouw. As mentioned above, Waterberg is in fact engaging with the Kgatlu Community of Goedetrouw. Our client has records of a long history of engagements with this Community and a further meeting has already been scheduled. If your clients feel that the Kgatlu leadership is keeping them in the dark, we respectfully suggest that they take this matter up with their leadership, rather than threaten Waterberg with an urgent court application. We record that Waterberg holds a duly authorised environmental authorisation in regard to its proposed mining activities. Site clearance is being conducted in accordance with the environmental authorisation and financial provision for rehabilitation has been provided by our client. This should thus not be of concern to Mr Kgabo Simon Manamela. Persons entering this area are to be mindful of the strict requirements of the Mine Health and Safety Act, 1996.

It is also incorrect that criminal charges have been laid against our client.

PN MGM

9. As regards your paragraph 4.3, we record that the land is privately owned and does not fall under the ambit of the Minister of Agriculture, Land Reform and Rural Development. Your clients should be guided accordingly.

10. In paragraph 4.4 of your letter under reply you record that Messrs Senosha and Ramaroka are aggrieved that Waterberg is ignoring the section 54 mechanisms. Our instructions are that Mr Senosha resides on the Farm Ketting and Mr Ramaroka on the Farm Early Dawn. Neither of these farms are currently affected by mining operations. As such, they have not, nor are likely to, suffer any "*loss or damage*" as a result of mining operations as contemplated by section 54 of the MPRDA. Other than, potentially, an air vent in approximately 25 years' time, Early Dawn will suffer no loss or damage. Any loss or damage that may occur on the Farm Ketting will be minimal and this will be catered for in the lease agreement being drafted by Werksmans Attorneys on behalf of the Ketting Community.

11. It will be apparent from the foregoing, that our client regards the claims of your clients as opportunistic at best, and regrettably misguided.

12. Waterberg will thus not provide the demanded undertaking. Should your clients nevertheless proceed with any urgent court application, our client will be compelled to oppose the application and to request a punitive costs order against them. Should your clients proceed as threatened, please favour us with a courtesy copy, via email, of the application.

13. Your clients are urged, to the extent that they have genuine grievances and the legal standing to pursue same, to engage through the existing, legitimate channels rather than to resort to costly and time-consuming litigation.

Yours faithfully

2021.07.28
15:42:24
+02'00'

ALLAN REID
CLIFFE DEKKER HOFMEYR INC

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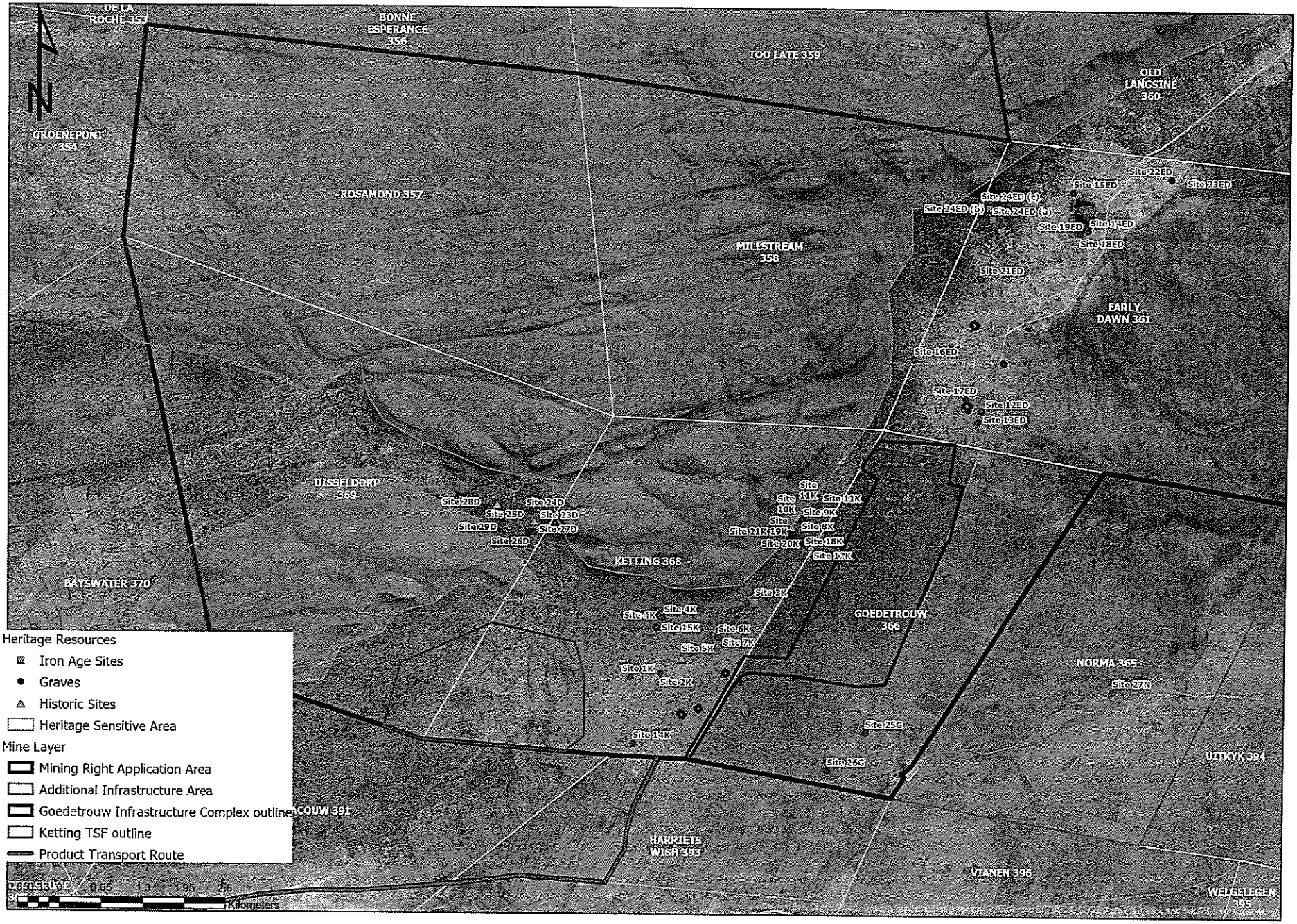
MGM 10

PN KAM MGM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Site 4K
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Site 7K
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Site 14K
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Heritage Resources
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Historic Sites
Heritage Sensitive Area
Mine Layer
Mining Right Application Area
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TSF
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Central Portal
South Portal
Processing Plant
Shared Services
Waste Rock Dump
Vent Shaftt
Stockpile
Product Silo
Conveyors
Pollution Control Dam
Tailings Services (Pipeline & Powerline)
132 kV PowerLines
Eskom Switching Station
MV Substation
Substation
Explosives Magazine
Road
Underground South Complex
Underground Central Complex
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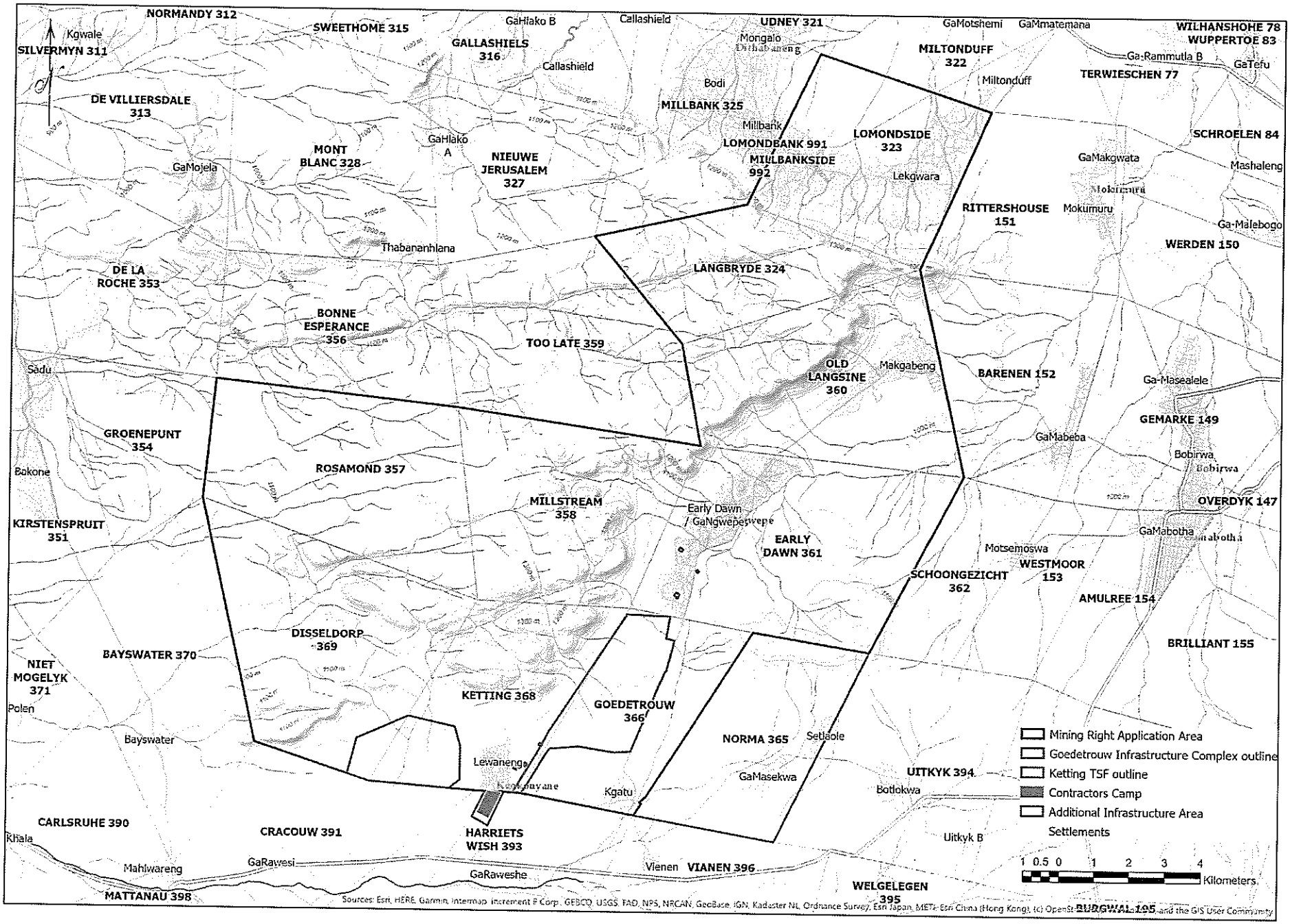
Kilometers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Mining Right Application Area
Goedetrouw Infrastructure Complex outline
Ketting TSF outline
Contractors Camp
Additional Infrastructure Area
Settlements
1 0.5 0 1 2 3 4
Kilometers
Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

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5 Concerning new mining development on community land, the stated policy of the government was that the Minister of Land Affairs in her capacity as trustee and nominal owner of almost all communal land, provided as follows:

> "If land is involved which was previously owned by the disbanded South African Development Trust[9] (SADT) or land held in trust for a tribe or community, the Department of Land Affairs is approached by DME. DME and Land Affairs also agreed that the latter will consult with the Provinces and the occupiers of such land or the tribe or community when they are approached to comment on applications for prospecting or mining rights. The wishes of the Provinces and the occupiers are taken into consideration before any decision concerning such land is taken by the Minister of Minerals and Energy or his delegate. Only after a final decision has been taken and conditions have been embodied in a contract, the required permit will be issued by the Director: Mineral Development concerned."[10]

6 In terms of policy directives[11] of the Department of Land Affairs, communities[12] with

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a) a preference to exploitation by the residents, and in suitable instances in collaboration with external institutions, taking the optimal utilisation, exploration and exploitation of the minerals and the rehabilitation of the surface into account;
b) surface rentals;
c) the establishment of an equity sharing arrangement to the mutual benefit of all parties concerned; and
d) work opportunities to the extent reasonably possible for residents.

9 When the SADT was disbanded in 1992 most of the land owned by the SADT was transferred to the then apartheid Minister of Regional and Land Affairs with effect from 1 April 1992. The trust moneys were dealt with under the Abolition of Racially Based Land Measures Act, but there was no account given to the affected communities.

10 Website of the Department of Minerals and Energy, 10 October 2002

11 Interim Protection of Land Rights Act (IPILRA) and departmental directives:
a) "Interim Procedures Governing Land Development Decisions Which Require The Consent Of The Minister Of Land Affairs As Nominal Owner Of The Land", APPROVED BY POLCOM ON 20 NOVEMBER 1997 AND AMENDED ON 14 JANUARY 1998 & ALSO IN TERMS OF SECTION 3(1)(A)(II) OF ACT 112 OF 1991 AS AMENDED BY ACT 34 OF 1996

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insecure tenure in the former homelands were to be treated as the putative owners of the land that they occupy. When land occupied by such a community was subject to a mining application, the Department of Land Affairs had to enter into a tripartite agreement with the relevant mining company and the community, in terms of which the community could obtain and negotiate benefits. These could include equity and/or royalty arrangements.

7. The Minerals and Mining Policy White Paper of October 1998 was largely based on the "use-it and keep-it" principle and licensing allowing for state determined royalties to the rights holder and surface rental to the owner [paragraph 1.3.6.2]. Up until now, prospecting fees and royalty payments have been payable where prospecting or mining operations involving state owned mineral rights have been taking place. The rates for prospecting and the level of royalties for mining were set out in a document approved by Director-General of the Department of Finance.

Communities under the Mineral and Petroleum Resources Development Act of 2002 (MPRDA)

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b) THE ENTITLEMENT OF IPILRA AND ESTA RIGHTS HOLDERS IN RESPECT OF STATE LAND DISPOSAL PROJECTS, Tenure Reform Directorate, PC.DOC 52/1999

c) The Interim Procedures Governing Land Development Decisions which Require the Consent of the Minister of Land Affairs as Nominal Owner of the Land http://land.pwv.gov.za/tenurereform/New_TenureReform/Policies/Policies.htm. [downloaded 29 October 2006];

e) Payment of benefits to the occupants and users of land, where the power of formal disposal of rights in that land vests in the Minister of Land Affairs, dated 18 May 2000; read with the opinion of the Chief State Law Advisor, dated 6th October 1999;

f) LAND TENURE, INVESTMENT & ECONOMIC DEVELOPMENT IN COMMUNAL AREAS BRIEFING PAPER FOR THE CABINET INVESTMENT CLUSTER, Dr Sipho Sibanda Director, Tenure Reform Department of Land Affairs 3 September 1999 [downloaded from DLA website 19 May 2007] http://land.pwv.gov.za/tenurereform/

[12] including communities as defined in the MPRDA, ie: 'community' means a coherent, social group of persons with interests or rights in a particular area of land which the members have or exercise communally in terms of an agreement, custom or law;"

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PROPOSED WATERBERG PLATINUM MINE PROJECT

Ref Number: LP30/5/1/2/2/10161 MR
Applicant: Waterberg JV Resources (Pty) Ltd
Applications: Mining Right Application, Environmental Authorisation & Waste Management Licence Application, Integrated Water Use Licence Application
Location: Various Properties Located in The Blouberg Local Municipality, Capricorn District
Environmental Assessment Practitioner: Gert Pretorius, Bateleur Environmental & Monitoring Services
Date: 17 November 2020

NOTICE OF THE AMENDMENT OF THE RECORD OF DECISION ON THE INTEGRATED ENVIRONMENTAL AUTHORISATION FOR A MINING RIGHT IN TERMS OF SECTION 24 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (NEMA) AS AMENDED, READ WITH REGULATION 21 OF THE ENVIRONMENTAL IMPACT ASSESSMENT (EIA) REGULATIONS, 2014 AS AMENDED

Waterberg JV Resources (Pty) Ltd received their Record of Decision for the Integrated Environmental Authorisation (IEA) on 12 August 2020. All Registered Interested and Affected Parties were notified of the IEA decision on 18 August 2020, and their attention drawn to the appeal process and deadline date for submission of an appeal.

The South African Heritage Resources Agency (SAHRA) submitted an appeal requesting that the IEA be amended to include specific heritage conditions. Waterberg JV Resources (Pty) Ltd had no objection to this amendment.

On 28 October 2020 the appeal was granted and an appeal decision was signed by the Minister of Environment, Forestry and Fisheries, that directed the Department of Mineral Resources and Energy to amend the IEA issued on 12 August 2020 to include the conditions that:

- Item 8 of the IEA must be amended to reference the Integrated Heritage Assessment Report dated 10 March 2020, pages 80-85.
- No mining activities must occur on the Makgabeng Plateau and on the surrounding mountains on the farms Early Dawn, Ketting and Disseldorp;
- Access and management of these high lying areas (Makgabeng Plateau and the surrounding mountains on Early Dawn, Ketting and Disseldorp) must be granted for conservation, reasearch, indigenous and cultural practices;
- The Heritage Management Plan must be submitted to Rock Art Research Institute of the University of Witwatersrand (RAR) for review and thereafter submitted to SAHRA for approval; and
- SAHRA reserves the right to monitor conservation measures of heritage sites located within the mine right area of Waterberg JV Co.

Waterberg JV Resources (Pty) Ltd received the amended IEA on 10 November 2020. A copy of the amended decision can be accessed on the following link: https://document.sharefile.com/d-s9cf79968a3d141f

The purpose hereof is to notify you of the outcome of the SAHRA appeal and to provide you with access to a copy of the amended IEA.

Please do not hesitate to contact the Public Participation Office for any clarity.

Regards
Lizinda Dickson
PUBLIC PARTICIPATION OFFICE
Contact the Public Participation Office for any further information on: 012 543 9093 (t); 086 607 6464 (f) or email at waterbergmine@gmail.com.

MGM KAM

PN

MGM 12

Preliminary MPRDA Section 54(2) read with 54(7) meeting

Inbox

Aubrey Langa <langaaubrey1@gmail.com> Thu, Apr 29, 6:13 PM

to machabamj, makwelam, mMgudlwa, tlousetumu1, Mamidi, simon, joseph, pearl morem, Johan, Godknows, Elisha, shirley, shula, Motlanalo, Tshepo, Constance, Ghogha, Elton, Matome, Thobeka, Wilmien, Aninka

Dear Municipal Manager, the Mayor and Adv. Mlibo Mgudlwa,

1. The discussion I had today with Adv. Mlibo Mgudlwa followed by a phone discussion I had with the Regional Manager, refers.

2. In the discussion with Adv. Mlibo Mgudlwa, I indicated that I have accepted the proposal by the municipality that PTM and the protesting residents engage with a view of reaching agreement on disagreements or disputes emanating from the prospecting phase and potential future disputes relating to access to, occupation and use areas reserved in terms of other laws such as Interim Protection of Informal Land Rights Act (IPILRA), the Spatial Planning and Land Use Management Act (SPLUMA), the National Heritage Resources Act (NHRA), the Biodiversity Act and National Environmental Management Act (NEMA) pursuant to commencement with mining and mining-related activities. The engagement is premised on the need to set the PTM Project on a sustainable development path by balancing social, heritage, ecological and economic elements of the environment.

3. And in the discussions with the municipality as represented by the Mayor and the Municipal Manager, I informed that the protesting residents have already formally declared an internal dispute resolution mechanism in terms of the MPRDA Section 54(7) by having given the Regional Manager of the DMRE a written notice and that Section 54(3) provides for a process in which the parties engage with a view of finding negotiated settlement of disputes. The municipality accepted the role of a facilitator in this process. The Regional Manager shall remain the statutory mediator in this process. It was agreed in principle that a party-to-party mediator with requisite expertise in mining, environmental and land tenure laws will be appointed as per an agreement between the parties.

4. Accordingly, subsequent to the discussion with Adv. Mlibo Mgudlwa, I proposed a meeting for 1pm on Tuesday 4 May 2021, which proposal was accepted by the Municipal Manager.

5. I hereby requests Adv. Mlibo Mgudlwa to confirm his availability for this meeting.

6. On agenda is generally to develop and agree on housekeeping rules, a work plan, scheduling and logistics for the proposed settlement discussions. Participants are free to add other agenda items for consideration.

PN ICAM MGM

7. I trust you find this missive in order.

Regards,

Aubrey Langa

Mlibo Mgudlwa <mMgudlwa@platinumgroupmetals.co.za> Mon, May 3, 11:40 AM

to Aubrey, machabamj@blouberg.gov.za, makwelam@blouberg.gov.za, tlousetumu1@gmail.com, Mamidi, simon, joseph@nyewaneconsultants.co.za, pearlmorem@gmail.com, Johan, Godknows, Elisha, shirley@nkuzi.org.za, shula@nkuzi.org.za, Motlanalo, Tshepo, Constance, Ghogha, Elton, Matome, Thobeka, Wilmien, Aninka

Dear Mr Langa

As the mining right holder, Waterberg JV Resources (Pty) Limited is always open to meaningful engagement with host communities and strongly believes that that it is in the best interests of all stakeholders to have open, transparent channels of communication.

However, such engagements must of necessity be held with the legitimate leaders and representatives of these host communities. Failure to adhere to this principle will result in dissatisfaction within communities and could be divisive. We are aware that you are not resident in any of the host communities nor, to our knowledge, do you have any personal interests therein. Likewise, we do not know what community you claim to represent.

Additionally, many of the stated agenda items are legal in nature and the proposed forum is not suitable for such engagements, particularly when extensive public participation has already been conducted.

We are therefore unable to accept your proposed meeting invitation or the proposed agenda.

We would also require that you provide us with proof of your authority to represent the community which you claim to represent before any possible further engagement.

Kind regards

Mlibo Mgudlwa
Vice President
Platinum Group Metals (RSA) (Pty) Ltd.
1st Floor, Rosebank Terrace| 23-25 Sturdee Avenue | Rosebank, Johannesburg | 2196
(mobile) +27 82 859 4453| (main) +27 11 214 7800 | (fax) +27 11 447 1000
(email) mmgudlwa@platinumgroupmetals.co.za | (web) http://www.platinumgroupmetals.co.za

PN MGM KAM

MGM 14

Address Lewaneng
P.O. Box 362
Jane 0748

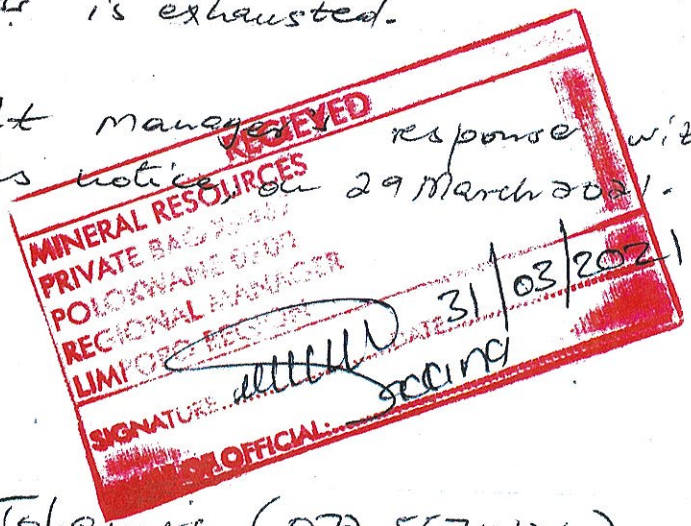
The Regional Manager
DMR
Polokwane

Dear Sir

Re: Notice interms of section 54(7)

As members of the Community of Lewaneng who have land rights dispute with Pan Waterberg JV projects, we hereby notify the Regional Manager that we deny the mine access to the land for commencing with mining activities until and unless the section 54 dispute resolution process is exhausted.

We will await management response within 14 days of this notice on 29 March 2021.



Your Sincerely

Senosha Hlaro Johannes (072 5570136)

PN ICAM MGM

MGM 95

Call to address unlawful conduct in terms of the MPRDA Section 54(7) relative to PTM's access to Goedetrouw 366 LR and Ketting 368 LR farms

Aubrey Langa <langaaubrey1@gmail.com> Mon, Jul 12, 7:33 PM

to Azwihangwisi, Tebogo, mMgudlwa, allen.reid, Thabo, Thabo, Ghogha, Matome, Thobeka, sh

Dear Mr Azwihangwisi Mulaudzi,

As you are aware, in solidarity with community members of Kgatlu. Lewaneng and Ga-Ngoepe administrative processes such as an appeal and a Section 54(7) mechanism have been invoked. PTM was also informed of Section 54 internal dispute mechanism procedure initiated when a Section 54(7) written notice given to you was attached to a Memorandum of Grievances and Demands (Memorandum) handed over to PTM during a protected protest action.

One of the purposes of invoking Section 54(7) mechanism is to ensure that PTM does not commence with mining and mining-related activities prior to full compliance with the MPRDA Section 25(2)(d), which obliges PTM to comply with notification and consultation requirements provided in Section 5A(c) and 54. As you know, these two provisions prohibit unlawful commencement and thus serve as statutory interdicts.

Notwithstanding, it was confirmed today that PTM has entered via a road on Ketting 368 LR farm, a forest camp in Goedetrouw farm that is primarily used for grazing by residents of Kgatlu village for the purposes of commencing with site preparation activities pursuant to exercising mining right. This conduct is unlawful, notably in undermining the Section 54(7) process initiated as far back as March 2021.

Consequently, you are hereby respectfully requested to address this aberrance by ordering PTM to immediately stop with any activities incidental to mining in the area.

Further, as more than two weeks ago I requested the intervention of the Director-General, Adv. Thabo Mokoena regarding woeful lack of implementation of the Section 54 mechanism within a reasonable time (never mind the prescribed 14 days period of the notice given), the DMRE is urged to convene a meeting to address this lack of implementation.

We are looking forward to hearing from you soonest.

PLEASE NOTE THE URGENCY OF THIS MATTER.

Regards,

Aubrey Langa

PN KAM MGM

MGM 18

Aubrey Langa <langaaubrey1@gmail.com> Fri, Jul 16, 8:07 AM (13 days ago)

to allan.reid, mMgudlwa, Azwihangwisi, Tebogo, Thabo, buang.mokate, vuyelwa.siyeka, Ramarok

Dear Mr Allan Reid,

Please note the forwarded email, in which your email address is incorrectly spelled and thus I assume that the email did not reach you.

I take am opportunity to add on what is stated in the email and to update you on reaction to the development at Goedetrouw 366 LR and Ketting 368 LR farms:

1. Yesterday, Thursday 15 July 2021, the Senosha family of Lewaneng village in Ketting 368 LR informed me that WJV has trespassed into the family's farming plot and conducted activities incidental to mining. The trespass charge is based on the fact that WJV has not given the family any notice envisage in terms of the MPRDA Section 5A(c) and has not consulted with the family as contemplated under the MPRDA Section 54 and the IPILRA Section 2(4) pursuant to obtaining the family's consent in terms of customary law and the IPILRA Section 2(1) to be deprived of their possession of their plot. As background, please note that one of the family member, Mr Johannes Nare Senosha, in his capacity as a community leader, has in March 2021 given Mr Azwihngwisi Mulaudzi (copied in this email) a notice in terms of the MPRDA Section 54(7) in which dispute relating to a similar conduct is internally resolved in a mediation process led by the latter. As during a protected protest action WJV was given a copy of the notice invoking Section 54 dispute resolution mechanism, Mr Johannes Nare Senosha and his family are of the view WJV and the Regional Manager are undermining the Section 54(7) mechanism.

2. In the circumstances, I am instructed to demand that WJV immediately stop any mining and mining-related activities carried out in contravention of the MPRDA Section 25(2)(d) and 54(7) read IPILRA Section 2.

3. Further, that WJV is once again, as it was requested in the Memorandum of Grievances and Demands handed over during the protest action, to facilitate intervention of the Regional Manager. Attention is drawn that the demand in 2 above triggers in peremptory terms (in terms of the MPRDA Section 54(1)(a)) WJV's responsibility to seek intervention of the Regional Manager. So, the requirement of WJV to facilitate a convening of a Section 54(2) meeting with the Regional Manager is no longer an optional task.

4. The Senosha family and associates are prepared to seek an amicable solution to the dispute but under the procedural safeguards provided in terms of MPRDA and the IPILRA.

It will be appreciated if we hear from you before close of business on Tuesday 19 July 2021.

Regards,

Aubrey Langa

PN

MGM Kam

280

---------- Forwarded message ---------
From: **Aubrey Langa** <langaaubrey1@gmail.com
Date: Mon, Jul 12, 2021 at 7:33 PM
Subject: Call to address unlawful conduct in terms of the MPRDA Section 54(7) relative to PTM's access to Goedetrouw 366 LR and Ketting 368 LR farms
To: Azwihangwisi Mulaudzi <Azwihangwisi.Mulaudzi@dmre.gov.za>, Tebogo Mangaba <Tebogo.Mangaba@dmre.gov.za>, <mMgudlwa@platinumgroupmetals.co.za>, <allen.reid@cdhlegal.com>, Thabo Mokoena <tibosi@yahoo.com>, Thabo Mokoena <Thabo.Mokoena@dmre.gov.za>, Ghogha Margaret <margaret.ghogha@gmail.com>, Matome Kapa <mkapa@cer.org.za>, Thobeka Gumede <tgumede@cer.org.za>, <shula@nkuzi.org.za>, Tshepo Fokane <fokanet@ardt.org.za>, Constance Mogale <constance.mogale@gmail.com>

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MGM KAM

MGM 18

MEMORANDUM OF GRIEVANCES AND DEMANDS

1. We are aggrieved by the exclusion of women in consultations, sharing of information and negotiations regarding the planning and development of the PTM Project that largely impacts on daily lives of women as the traditional caretakers of the home-base.

2. Women and youth demands to be involved in key decision-making processes.

3. We demand full recognition and acceptance of free, prior and informed consent (FPIC) as a collective right of the Makgabeng Peoples in this commercial development, by PTM and state actors.

4. We demand that land access should be based on consultation in terms of Section 54 of the Mineral and Petroleum Resources Act (MPRDA) and consent required in terms of section 2(1) and (4) of the Interim Protection of Informal Land Rights Act (IPILRA), with all occupiers of the farms Ketting, Goedetrouw and Early Dawn.

5. We are aggrieved by lack of compensation for damages caused during the prospecting phase.

6. We demand that PTM fulfils all commitments made during the prospecting phase, including the monetary payment commitment made to the Kgatlu community or obligations to communities of Lewaneng and Ga-Ngoepe.

7. We are aggrieved that PTM is perpetuating the colonial divide and rule policy by recognizing and engaging exclusively with those who claim exclusive private ownership of the land under common law property regime.

PPV MGM

8. We demand that communal occupational rights and interest be recognized and respected by PTM.

9. We demand recognition that ownership of the land does not equate to exclusive consultations and receipt of benefits from the project.

10. We demand recognition of individual or select group rights and interests relating to land tenure and self-development.

11. We demand recognition and respect for occupational benefits in line with the generally accepted legal principle and instruments such as the shared value paradigm, the Mining Charter and the State Land Lease and Disposal Policy (SLLDP).

12. We demand the following way as a forward:

    11.1. That PTM commits to convene a meeting amongst PTM, the Blouberg Local Municipality and the interim representative of the three communities and their associates, within ~~14~~ 7 days (before ~~14~~ 21 May 2021).

    11.2. That PTM commits to secure a meeting with the Regional Manager of the DMRE relating to the Section 54(7) notice given to the Regional Manager and hereto attached, pursuant to the latter convening Section 54(2) meeting before 21 May 2021.

    11.3. Alternatively, that the Regional Manager gives a written approving of an agreement between the parties to proceed with the Section 54(3) dispute resolution process step, by 21 May 2021.

    11.4. That PTM immediately but before ~~X~~ 21 May 2021 address a letter to the Department of Agriculture, Land Reform and Rural Development (DALRRD) requesting that the latter

PN MGM

urgently initiates a land rights enquiry on Ketting, Goedetrouw and Early Dawn farms, and copy the Deputy Convener such letter.

11.5. That PTM responds to this Memorandum of Grievances and Demands before close of business on 21 May 2021.

11.6. To liaison with the Convener and Deputy Convener in regard to all the above.

Signatures:

1. Recipient of Memorandum: _____
2. Convener: _____
3. State Officer: _____

Contact details:

1. Convener: Mr Johannes Nare (0725570136/083382694).
2. Deputy Convener: Mr Aubrey Langa (langaaubrey1@gmail.com; 0761584045).
3. Chief Marshal: Mr Arios Ramoroka (0714513092/0790802572).
4. Deputy Chief Marshal: Ms Elise Magwai (0796568405).

PR MGM

Address Lenaneng
P.O. Box 362
Mmo 0748

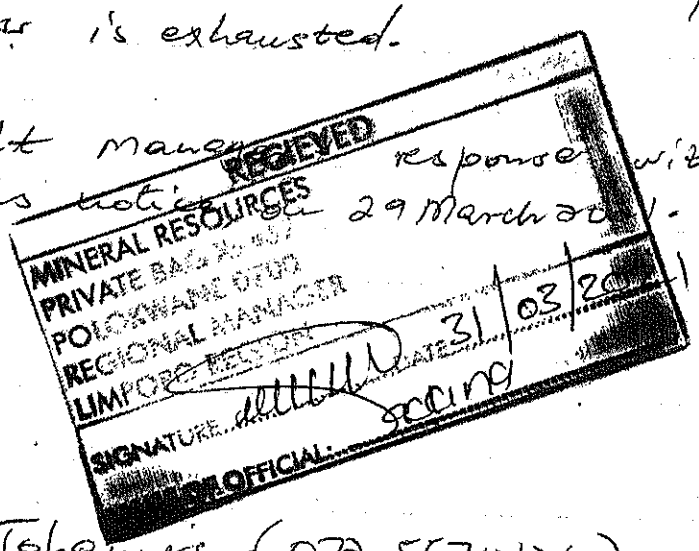
The Regional Manager
DMR
Polokwane

Dear Sir

Re: Notice interms of section 54(7)

As members of the Community of Lenaneng who have land rights dispute with PTM Waterberg JV projects, we hereby notify the Regional Manager that we deny the mine access to the land for commencing with mining activities until and unless the section 54 dispute resolution process is exhausted.

We will await mane response within 14 days of this notice dated 29 March 2011.

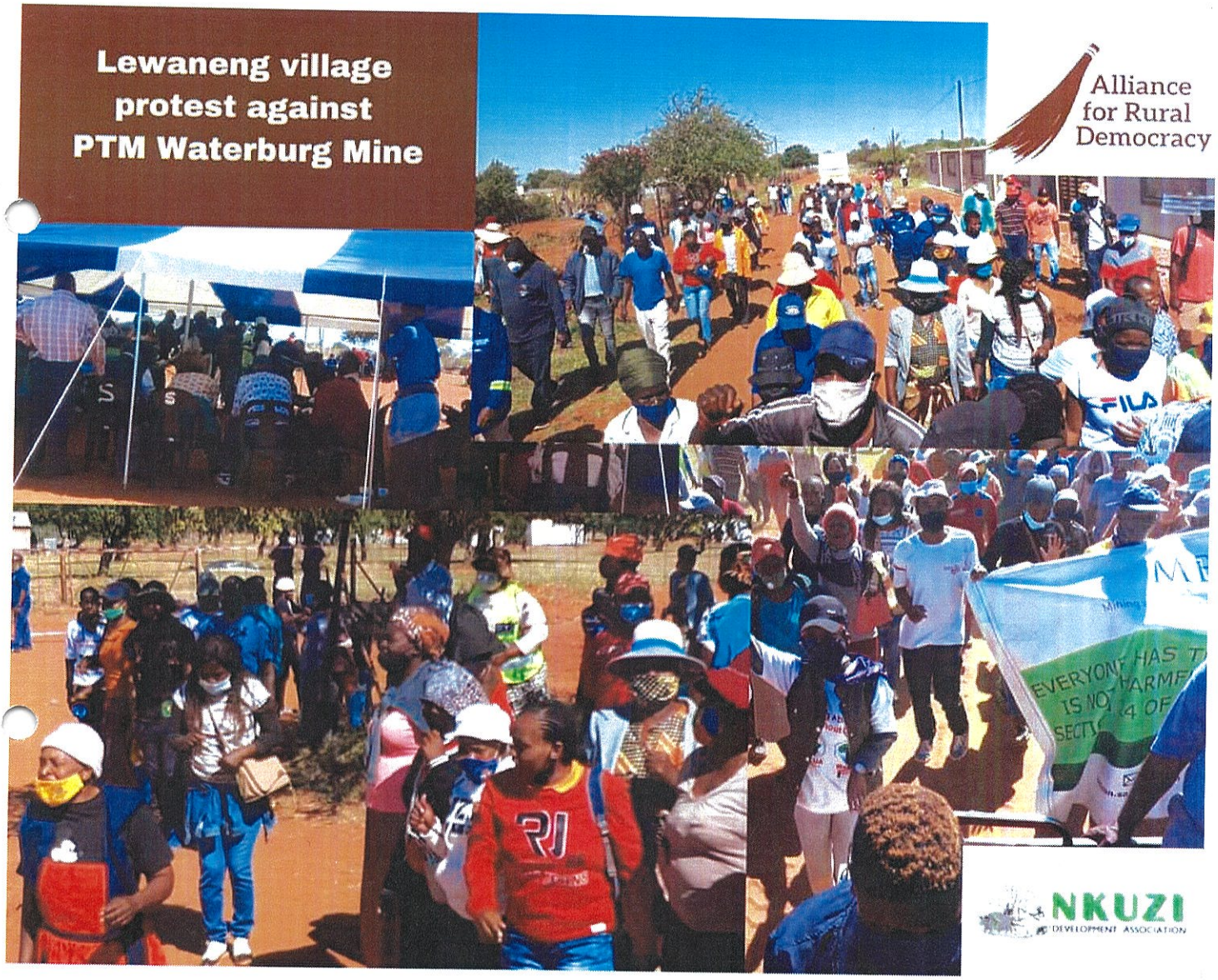


Yours Sincerely

Jenosha Mare Johannes (072 5570136)

PP MGM

MGM 19



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MGM31 - 20210723_101944.jpg

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DH11

MGM 22

Fwd: Notice in terms of section 54 of the MPRDA regarding dispute about access to Goedetrouw 366 LR

Inbox

simon Manamela Jul 12, 2021, 9:41 PM

to Joseph, Joseph, Lazio, kobopg007, Phuti, me

FYI.
---------- Forwarded message ---------
From: **simon Manamela** <kgabomanaks@gmail.com>
Date: Mon, 12 Jul 2021 at 21:39
Subject: Notice in terms of section 54 of the MPRDA regarding dispute about access to Goedetrouw 366 LR
To: <Azwihangwisi.Mulaudzi@dmre.gov.za>

Dear Mr Azwi Mulaudzi,

I and other residents of Goedetrouw *(AKA* Kgatlu*)* village, herein referred to as Kgatlu Concerned Residents, hereby notify you of the dispute between the Waterberg JV Project (WJV) and members of the Kgatlu community regarding access to our Goedetrouw 366 LR camp used by community members for grazing and other livelihood activities. Although WJV reportedly entered the land on Thursday 8 July 2021, it is only today that someone I sent to the camp confirmed that it is indeed employees and contractors of WJV who have entered the area unlawfully in that a gate and fence were damaged in the process of the mine forcing its way into the camp. Earlier, I was also sent photos of vehicles that are unknown to members of our small community, in the camp.

A further report is when the Chairman of General Council, a governance structure within Kgatlu village, tried to stop WJV to enter the camp with more equipment and vehicles, then he was told where to get off.

In the circumstances, as directly affected residents of Kgatlu village, we call upon you to urgently intervene by convening a meeting in terms of section 54(2) of the MPRDA between WJV and Goedetrouw 366 LR Concerned Residents for engagement in this regard.

Please note, in declaring common cause with the Section 54(7) notice you were in April 2021 given by Mr Johannes Nare of Lehwaneng village, we request that the meeting is convened within seven (7) days of this notice (i.e. by Monday 19 July 2021) as opposed to the 14 days prescribed in Section 54(1). The meeting can also be held **virtually**, given restrictions relating to the COVID-19 pandemic.

Notwithstanding the proposed intervention discussion, we herein demand that WJV be instructed to **forthwith immediately stop with any activities** within the camp and requests that the Regional Manager issues WJV with written notice in terms of section 31L of the NEMA for entering the camp and carrying out the mining-related activity as listed Activity 17 of the EIA Regulations of 2014 (as amended) Listing Notice 2 in contravention of terms and conditions of the EA as well as notice and consultation requirements contemplated in section 5A(c) and 54 of the MPRDA.

Pr MGM

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PN MGM

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APPENDIX F: COMMENTS AND RESPONSE FROM IAPS RELATING TO HERITAGE

PN MGM KAM

TABLE OF CONTENTS

PN MGM ICAm

NO	COMMENT	STAKEHOLDER	RESPONSE
6.	Our Graveyard: We as community of Kgatlu we say no to relocation of our graves, to avoid conflict they must play far away to our graveyard, it's our forefathers heritage and the mining company must not tempered with that. Any blast not aware of our graveyard can cause damage, the investigation team must ensure that they entertain the matter as soon as possible. The community oppose relocation of the graves. It is its heritage and the mining company should not tamper with them	Michael Choshi Goedetrouw 8 September 2019 Lawyers for Human Rights Kgatlu Community Goedetrouw 18 September 2019	No graves will be relocated. All graves were identified prior to the mining layout being determined. Infrastructure was thus not placed in close proximity to any graves. The graves were also taken into consideration during the Blasting Impact Assessment, the assessment determined that the influence on graves are negligible. Also refer to the response in item 5 below.
	Early Dawn / Ga-Ngwepe Comments		
7.	When people talk about mining they humble themselves and make promises. We are telling you we do not want grave exhumation here.	Julius Molokomme Early Dawn – Ga-Ngwepe Community Member Meeting 27 September 2018 **Scoping Phase**	Mining at Early Dawn will be underground you can continue with surface activities; graves will not be affected.
8.	All the places where you will be working you must take care of graves. If you do not do so this matter will cause strife between us. Do not move graves.	Frans Malose Rammutla Rev. Mmaphuti Ezekiel Morifi Written submission 7 August 2019 **EIA Phase**	A heritage impact assessment has been undertaken, and all graves identified. The only infrastructure potentially planned on Early Dawn is one vent shaft in 20 – 25 years time. The HIA noted that there will be no impacts on graves at Early Dawn.
9.	I know of a place where children lived, now I recall it was a built heritage site.	Mr Kgabo Mack Ramoroka Written submission 7 August 2019 **EIA Phase**	A specialist has been instructed to conduct a historical built environment assessment. This information should be provided to the specialist.
10.	What will happen when the mine starts and the community gets affected, for examples houses or tombstones get damaged. I request that photos be taken before mining commences so that we can have evidence of our issues / matters.		For the reasons set out above, it is very unlikely that houses will be impacted by blasting or tombstones impacted on. The EMP includes a mitigation measure as a precautionary measure, that photographic survey is done surrounding the mine area before such blasting occurs.
11.	Is there no other way that can safeguard graves from exhumation because the strife between the community and the mine is brought on by the issue of graves?	Mrs Raesetja Florah Mphahlele Written submission 7 August 2019 **EIA Phase**	A heritage impact assessment has been undertaken, and all graves identified. The only infrastructure potentially planned on Early Dawn is one vent shaft in 20 – 25 years time. The HIA noted that there will be no impacts on graves at Early Dawn.
12.	The issue of graves. Traditionally exhumation is not permitted.	France Ramotla Community meeting 2 August 2019 **EIA Phase**	Studies have been done to determine where the graves are, therefore no graves will be affected.
	Old Langsine / Makgabeng Community Comments		
13.	How are the following be protected- Horses; Boreholes: Life stock and Cemeteries. Wish my 8 double garage room heavy burgundy tiled house be safely protected during the process of the project. Additional 5 roomed in the same yard also be taken care of. Rondavel	Malokane Joel Komane	The full impacts on surrounding land uses and properties are still being investigated and will be communicated to all I&AP's during the EIA phase meetings.

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NO	COMMENT	STAKEHOLDER	RESPONSE
			Both Assessments indicated that the Project may continue if the mitigation measures proposed were undertaken. • Groundwater Impact Assessment in terms of boreholes - it is stated on page xiii for the Goedetrouw Assessment that "no water supply boreholes are under threat during the [life of mine]" and the same as concluded upon in terms of the Ketting location on page xi. • Blasting in terms of infrastructure (as above). These specialist reports will be made available during the EIA PPP and will be incorporated into the EIA which will also be made available. Under the MPRDA a lease agreement is only required where the mining company will use the surface of the land and in that case compensation for the use of the land will be agreed in accordance with the requirements of the MPRDA. No mining fee is prescribed. No Surface Infrastructure nor activities are contemplated on the Langbryde property. An SLP will need to be approved prior to the grant of the MRA. Under the MPRDA this must include commitment to local procurement and learnerships.
	Lomondside / Lekgware Community Comments		
14.	No heritage related comments received		
	Norma A & B Comments		
15.	No heritage related comments received		

2 TRADITIONAL AUTHORITIES

NO	COMMENT	STAKEHOLDER	RESPONSE
	Bahananwa Traditional Authority		
16.	Our graveyard sites and heritage sites must be respected in terms of National Heritage Resource Act 25 of 1999 (NHRA) Republic of South Africa.	Bahananwa Tribal Council 15 July 2019 EIA Phase	Impacts on heritage resources are expected to be low, and will be mitigated and managed.
	Bakone Matlala Traditional Authority		
17.	No heritage related comments received		

3 LOCAL AUTHORITIES

NO	COMMENT	STAKEHOLDER	RESPONSE
	Capricorn District Municipality		
18.	No heritage related comments received		
	Blouberg Local Municipality		

PN MGM Kam

NO	COMMENT	STAKEHOLDER	RESPONSE
19.	How does the mine coexist with heritage, especially when one looks at the Makgabela plateau.	Jonas Tlouamma Meeting 31 July 2019 **EIA Phase**	A heritage impact assessment was done as well as a visual impact assessment, which has indicated a very low to no impact on these heritage resources.
20.	How can the mine assist in making this heritage area a tourism destination	Jonas Tlouamma Meeting 31 July 2019 **EIA Phase**	This can be considered as part of the Waterberg JVCo's, further discussion will be held in this regard.
21.	Based on the mining proposal for Waterberg JVCo regarding the development of the Waterberg Platinum Mine, the Blouberg Local Municipality comments as follows: The Makgabeng plateau has over 600 rock-art sites excluding Iron Agre sites and historical burials. The Makgabeng plateau forms part of the Vhembe Biosphere reserve, the sixth South African Reserve and the third in Limpopo Province. The Makgabeng plateau consists of the following properties: Bayswater No 370 LR, Morgen 3070, Square roods 383, Bonna Esperance No 356 LR, Morgen 2334, Square Roods 61, De La Roche No 353 LR, Morgen 2321, Square Roods 122, Disseldorp No 369 LR, Morgen 3308, Square Roods 116, Early Dawn No 361, Morgen 3522, Square Roods 413, Groenepunt No 354 LR, Morgen 1514, Square Roods 62, Harrietswish No 393 LR, Morgen 2740, Square Roods 165, Ketting No 368 LR, Morgen 2196, Square Roods 424, Langbryde No 324 LR, Morgen 1815, Square Roods 65, Lomonside No 323 LR, Morgen 2364, Square Roods 188, Millbank No 325 LR, Morgen 2680, Square Roods 238, Millstream No 358 LR, Morgen 2738, Square Roods 184, Normandy No 312 LR, Morgen 3421, Square Roods 439, Old Langsyne No 360, Morgen 3016, Square Roods 339, Rosamond No 357 LR, Morgen 3054, Square Roods 532, Too Late No 359 LR, Morgen 2906, Square Roods 521, ... to mention but a few. Given the rich culture and natural heritage of the Makgabeng, the plateau is currently undergoing a nomination process which will ultimately see it declared a National Heritage site. Given the sensitivity, significance and the current status of the plateau as it forms part of the Vhembe Biosphere Reserve, the Municipality hereby advises the Waterberg JVCo to hire a competent heritage experts to carry out a Heritage Impact Assessment on and around the plateau BEFORE any mining activity is conducted. Such assessment must be finalised and made available to all relevant stakeholders to study and discuss before commencement.	NJ Tlouamma Blouberg Local Municipality Dated 5 Aug 2019 Received 19 Aug 2019 **Post EIA Phase**	Your comments are noted. Waterberg JvCo has met with SAHRA in respect of additional studies required relating to any potential impacts that mining may have on rock art sites. The following was agreed: • an overarching / integrated Heritage Impact Assessment will be compiled, which will source information from various existing specialist studies such as the Air Quality Impact Assessment, Blasting Impact Assessment, Social Impact Assessment, Archeaological Impact Assessment and Palaeontological Impact Assessment; • due to point data of existing rock-art and other heritage sensitive sites within the broader area is not available, it was agreed that a Heritage Sensitive area would be utilised and the methodology of determining this area will be clearly described in the report above; • additional assessment of potential blasting impacts on sensitive heritage areas will be included in the above mentioned report; • additional assessment of potential tourism impacts will be included in the above mentioned report; and the applicant will make the DMR aware of the outstanding matters in terms of SAHRA's comments

4 ORGANS OF STATE

NO	COMMENT	STAKEHOLDER	RESPONSE
	Limpopo Department of Economic Development, Environment and Tourism (LEDET)		
22.	Mining operations must be suspended and a representative of the South African Heritage Resources Agency (SAHRA) and/ or Limpopo Heritage Resources Agency (LIHRA) be contacted immediately in the event of finding or uncovering any subterranean (middens, graves, etc.) as suspected from the information provided on page 77 of the SR.	MT Mamashela LEDET Written submission 18 Oct 2018	The EIA specifically includes as as a condition for inclusion in the EA that A Chance Find Procedure for heritage resources and artefacts needs to be in place. This will ensure that in the event of finding or uncovering any subterranean (middens, graves, etc.) the mining operations be be

NO	COMMENT	STAKEHOLDER	RESPONSE
		EIA Phase	suspended and a representative of the South African Heritage Resources Agency (SAHRA) and/ or Limpopo Heritage Resources Agency (LIHRA) be contacted immediately.
	South African Heritage Resources Agency		
23.	In terms of the National Heritage Resources Act, no 25 of 1999 (NHRA), heritage resources, including archaeological or palaeontological sites over 100 years old, graves older than 60 years, structures older than 60 years are generally protected. They may not be disturbed without a permit from the relevant heritage resources authority. In contexts of development applications, the developer must ensure that no heritage resources will be impacted by the proposed development, by lodging an application to SAHRA and submitting detailed development specifications as a notification of intent to develop. If the application is made in terms of s. 38 (8) of the NHRA then it is incumbent on the developer to ensure that a Heritage Impact Assessment (HIA) is undertaken, as s. 38(2)a does not apply. Such a study should follow the SAHRA 2007 Minimum Standards: Archaeological and Palaeontological Components of Impact Assessment Reports and section 38(3) of the NHRA.	Nokukhanya Khumalo Heritage Officer South African Heritage Resource Agency Written comment 4 October 2018 **Scoping Phase**	Heritage impact assessments for both the Goedetrouw and Ketting surface infrastructure alternatives have been conducted and impacts have been assessed therewith. See above. It has been indicated in these reports which graves are older than 60 years and where disturbance thereof will require a permit. In terms of the Ketting, heritage impact assessment, this would be for the following sites, all on Ketting: 2, 6, 8-9 and 19-21 9 (as referenced within the report). In terms of the Goedetrouw, this would be for grave sites 9 and 16 on Ketting and Early Dawn respectively (as referenced in the report). These reports will be made available during the EIA PPP and will further be incorporated into the EIA.
24.	This proposed mine will have significant impacts to the Highly Significant Makgabeng cultural landscape located within the Critical Biodiversity Area of the Vhembe Biosphere Reserve. This historical landscape spans thousands of years with evidence of various contact periods between various people groups. Even millennia considering there are recorded trace fossil of Cyanobacteria occurrences within the sedimentary rocks. The Makgabeng Plateau contains over 1000 rock art sites of the Hunter-Gatherer, Khwe and Bantu traditions, numerous significant stone walled settlements built during the Malebogo Rebelion. The proposed mining activities may have the potential to impact on significant rock art sites.	Nokukhanya Khumalo Heritage Officer South African Heritage Resource Agency Written comment 4 October 2018 **Scoping Phase**	Heritage Impact Assessments for both the Goedetrouw and Ketting surface infrastructure alternatives have been conducted and impacts have been assessed therewith. Rock art was assessed and identified within these reports for both Goedetrouw and Ketting. These reports will be made available during the EIA PPP and will further be incorporated into the EIA.
25.	Due to the Highly sensitive nature of the region, SAHRA requires that a detailed HIA is undertaken by a suitably qualified Heritage Specialist in terms section 38(3) of the NHRA. The Heritage Specialist must facilitate the undertaking of the following heritage specialist reports that must be components of the HIA report: An assessment of the Historical Built Environment and a cultural landscape assessment must be undertaken by a historical built environment specialist or a historical architect; All Visual Impacts to the stone walled sites and rock art sites must be assessed in the Visual Impact Assessment and the results must form part of the HIA and considered in the Heritage Impacts and Mitigation measures; The results of the dust impacts in the air quality assessment must consider the dust impacts to the rock art sites and a summary of those results must form part of the HIA and considered in the Heritage Impacts and Mitigation measures; The results of the impacts of blasting and vibrations must consider potential impacts to the stability of the stone walled sites and those results must form part of the HIA and considered in the Heritage Impacts and Mitigation measures; Tourism and the economic impacts must also be assessed due to potential restrictions of access to archaeological sites;	Nokukhanya Khumalo Heritage Officer South African Heritage Resource Agency Written comment 4 October 2018 **Scoping Phase**	Heritage Impact Assessments for both the Goedetrouw and Ketting surface infrastructure alternatives have been conducted and impacts have been assessed therewith. These reports will be made available during the EIA PPP and will further be incorporated into the EIA.

PN M Ghy Kam

MGM25

mineral resources & energy

Department:
Minerals Resources and Energy
REPUBLIC OF SOUTH AFRICA

Private Bag X 9467, Polokwane, 0700, Tel: 015 287 4700, Fax: 086 710 1045
DMR Building, 101 Dorp Street, Polokwane, 0699

DEPARTMENT OF MINERAL RESOURCES
ENVIRONMENTAL MANAGEMENT
PRIVATE BAG X 9467, POLOKWANE, 0700
TEL: 015 287 4700
2020 -11- 10
ENVIRONMENTAL AUTHORISATION: GRANTED
NEMA (ACT 107 OF 1998)
AS AMENDED
REGIONAL MANAGER: LIMPOPO REGION

Enquiries: Ms. Mudau M.D. Ref: LP30/5/1/2/3/2/1 (10161) EM
E-Mail Address: Daisy.Mudau@dmre.gov.za
Sub-Directorate: Mine Environmental Management

BY HAND

The Director(s)
Waterberg JV Resources (Pty) Ltd
Postnet Suite 81
Private Bag X12
Rooseveltpark
2129

For attention: Mlibo Mgudlwa. **Email:** mMgudlwa@platinumgroupmetals.co.za
CC: Cripps Ben **Email:** ben.cripps@cdhlegal.com

AMENDED INTEGRATED ENVIRONMENTAL AUTHORISATION ISSUED IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AS AMENDED (NEMA) AND NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT, 2008 (ACT 59 OF 2008) AS AMENDED (NEMWA), AND THE ENVIRONMENTAL IMPACT ASSESSMENT (EIA) REGULATIONS, 2014 FOR MINING RIGHT OF CHROME, COBALT, COPPER, GOLD, IRON, LEAD, MOLYBDENUM, NICKEL, PLATINUM GROUP METALS, RARE EARTHS, SILVER, VANADIUM, ZINC AND ASSOCIATED INFRASTRUCTURAL ACTIVITIES ON THE FARMS LANGBRYDE 324 LR, OLD LANGSINE 360 LR, EARLY DAWN 361 LR, MILLSTREAM 358 LR, GOEDETROUW 366 LR, KETTING 368 LR, DISSELDORP 369 LR AND ROSAMOND 357 PR, LOMONDSIDE 323 LR, SITUATED WITHIN BLOUBERG LOCAL MUNICIPALITY: LIMPOPO REGION.

With reference to the abovementioned application, please be advised that the Department has decided to **grant** environmental authorisation in terms of National Environmental Management Act (Act 107 of 1998). The environmental authorisation and reasons for the decision are attached herewith.

In terms of regulation 4 (2) of the Environmental Impact Assessment Regulations of 2014, you are instructed to notify all registered interested and affected parties, in writing within 14 (Fourteen) calendar days, from the date of the Department's decision in respect of your application.

Kind Regards,

REGIONAL MANAGER: MINERAL REGULATION
LIMPOPO REGIONAL OFFICE
DATE: 10/11/2020

PIN MGM KAM

mineral resources
& energy

Department:
Minerals Resources and Energy
REPUBLIC OF SOUTH AFRICA

Private Bag X 9467, Polokwane, 0700, Tel: 015 287 4700, Fax: 086 710 1045
DMR Building, 101 Dorp Street, Polokwane, 0699

ENVIRONMENTAL AUTHORISATION

Reference number:	LP30/5/1/2/3/2/1 (10161) EM
Last amended:	Amended Integrated Environmental Authorisation as directed by the Minister of Forestry, Fisheries and the Environment on 28 October 2020.
Holder of authorisation:	Waterberg JV Resources (Pty) Ltd)
Location of activities:	Farms Langbryde 324 LR, Old Langsine 360 LR, Early Dawn 361 LR, Millstream 358 LR, Goedetrouw 366 LR, Ketting 368 LR, Disseldorp 369 LR and Rosamond 357 PR, Lomondside 323 LR, Situated Within Blouberg Local Municipality: Limpopo Region

DECISION

ACRONYMS

NEMA:	The National Environmental Management Act, 1998 (Act 107 of 1998), as amended
EIA:	Environmental Impact Assessment.
DEPARTMENT:	Department of Mineral Resources.
EA:	Environmental Authorisation.
IEA	Integrated Environmental Authorisation.
EMPr:	Environmental Management Programme
BAR:	Basic Assessment Report
S&EIR:	Scoping and Environmental Impact Report
I&AP:	Interested and Affected Parties
ECO:	Environmental Control Officer
LIHRA:	Limpopo Heritage Resource Agency
SAHRA:	South African Heritage Resources Agency
EIA REGULATIONS:	EIA Regulations, 2014
MPRDA:	Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002), as amended
NEMA:WA:	National Environmental Management: Waste Act, 2008 (Act 59 of 2008), as amended.

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3. Key factors considered in making the decision.

All the information presented to the Department was taken into account upon the Department's consideration of the application. A summary of the issues which, in the Department's view, were of the most significance are set out below.

a) The procedure that has been followed is in accordance with the NEMA, NEMWA and the EIA Regulations of 2014.

b) The environmental impacts associated with the proposed activity will be addressed by the proposed mitigation measures outlined in the EMPr compiled by Mr Gert Pretorius Of Bateleur Environmental & Monitoring Services.

c) A sufficient Public Participation Process (PPP) was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations R982 of 2014 for public involvement;

d) Surface Water Specialist Report dated 26 June 2019; compiled by Anna van Vuuren and Rian Coetzee of WSM Leshika Consulting (Pty) Ltd recommended that a storm channel cleaning program should be implemented as a standard operating procedure. As a minimum, the sediments should be removed from the channels during the dry seasons and at least once during the wet season. This maintenance programme improve the efficiency of the proposed system by reducing the probability of spills.

Routine inspections which include channel inspections, berm and spillway inspections, vegetation overgrowth, sediment settlement and regular water quality monitoring programs are some of recommended tasks to be carried out to ensure a sustainable stormwater management plan is maintained;

e) Cultural Heritage Impact Assessment Report dated 21 June 2019 (Revised on 28 March 2019); compiled by A.C. van Vollenhoven of Archaetnos Culture & Cultural Resource Consultants recommended that the project may continue, but only after receiving the necessary comments from SAHRA as well as the implementation of the mitigation measures indicated on page 81 – 84 of the report;

f) Soil and Land Capability Specialist Studies dated 28 February 2019; compiled by J.H. van der Waals of TERRA SOIL Science concluded that the soils within the area are divided into predominantly deep sandy soils in level terrain and shallow and rocky soils in hilly and mountainous terrain. The dominant use in the area is extensive grazing with sporadic dryland subsistence agriculture where deeper soils allow. The agricultural potential is low, even in the deeper soils, due to low and erratic rainfall, that limit dryland cropping potential. The grazing potential of the areas that will be impacted is difficult to determine due to the fact that the current land use is subsistence agriculture and grazing with a subsequent loose management style. Again the final layout will be determine through negotiation with land owners rather than physical impact scale;

g) Visual Impact Assessment Report dated July 2019; compiled by Yonanda Martin of Newton Landscape Architects cc concluded that during construction the significance of visual impacts will be moderate but will change to high as the project enters the operational phase when tall structures begin to protrude above the vegetation line. The significance of the project will remain high throughout the operational phase and as the TSF's grow to their full height (page 54-55 of the report);

h) Biodiversity Assessment Report dated June 2019 compiled by LD van Essen of Nyengere Solutions (Pty) Ltd concluded that the area is dominated by two main plant communities – *Acacia totillis -Dichrostachys cinerea*.

There are currently two key options under consideration for the placement of the mine infrastructure. Based on the sensitivity of each of the vegetation types identified for the study area Alternative 2 appears to be a better option for the placement of the proposed infrastructure (page 169 of 311- for alternative 2);

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Guidelines for Heritage Impact Assessments required in terms of Section 38 of the National Heritage Resources Act (Act 25 of 1999)

1. HERITAGE RESOURCES MANAGEMENT

The heritage resources of South Africa have lasting value in their own right and provide evidence of the origins of South African society. These heritage resources are valuable, finite, non-renewable and irreplaceable and they must be carefully managed to ensure their survival (National Heritage Resources Act (No. 25 of 1999) s. 5(1)(a)).

The National Heritage Resources Act (NHRA) has introduced an integrated system for the identification, assessment and management of the heritage resources of South Africa. The NHRA makes provision for the general protection of heritage resources:

- Section 34 in respect of the built environment;
- Section 35 in respect of archaeology, palaeontology and meteorites; and
- Section 36 in respect of graves and burial grounds.

Section 38 sets out guidelines for Heritage Resources Management and the conditions under which heritage impact assessments are required when developments impact upon heritage resources. If disturbance is permitted by the appropriate authority, the impacts on heritage resource/s affected must be mitigated to ensure the recovery and recording of information about that site.

Reports resulting from the assessment of impacts to heritage resources, or their mitigation, are part of the management of these resources and it is necessary to ensure that the quality and content of such reports accurately identify and describe the resources prior to alteration or destruction, reflect the significance of the heritage resources and provide a narrative and record of their alteration.

1. SECTION 38 APPLICATION PROCEDURES

In terms of section 38 of the NHRA, at the earliest stages of any development project, HWC must be informed through the submission of a completed Notification of Intent to Develop (NID) form. In response to the information provided in the NID form, HWC must determine whether or not heritage resources are likely to be impacted by the proposed development.

- If the proposed development triggers the requirement for a Heritage Impact Assessment (HIA) as part of other legislation such as the National Environmental Management Act (NEMA) or the Minerals and Petroleum Resources Development Act (MPRDA), then a process is followed in terms of section 38(8). For more information on this process, please see the agreement and addendum between HWC and the Department of Environmental Affairs and Development Planning (DEADP) (December 2015). In terms of section 38(8), HWC must provide comment on a submitted Heritage Impact Assessment (HIA) to the decision-making authority. However, section 38(8) states that any HIA submitted, must satisfy the requirements of section 38(3) of the NHRA.
- If the proposed development DOES NOT trigger the requirement for a Heritage Impact Assessment as part of other legislation, but does trigger the activities identified in section 38(1) of the NHRA, then HWC must follow the process set out in sections 38(1) to 38(4).

If HWC is able to ascertain from the NID that heritage resources are likely to be impacted by the proposed development, then, in terms of section 38(2), HWC must request an HIA that assesses the impacts of the proposed development on heritage resources. This HIA must satisfy the requirements of section 38(3) of the NHRA.

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2. THE PURPOSE OF AN HIA

A Heritage Impact Assessment must provide insight into the impact of the proposed development on heritage resources and provide mitigation measures to limit the effect of that impact. The HIA must provide the heritage authority with sufficient information to properly assess the significance of resources on and around a site and to understand the short, medium and long term consequences of the proposed development on heritage resources so that the heritage authority can make an informed comment (section 38(8)) or decision (section 38(4)) on the impacts of a proposed development.

At a minimum, a Heritage Impact Assessment must include the following:

- Title page including the HWC Reference number, applicable section of the NHRA[1] and author information;
- Executive summary (Refer to the HWC Circular dated November 2014 regarding the requirements for Executive Summaries);
- Table of contents;
- Background information on the project;
- A description of the property/affected environment;
- A description of methodology;
- History and evolution of the site and context;
- The identification of all heritage resources that will be impacted either directly or indirectly by the proposed development.
- The mapping and spatialisation of these identified resources. At least two maps are required (a regional map and a more detailed map (project polygon));
- An assessment of the significance of these identified resources. (Refer to the HWC Guide for Grading: Implications and Management, dated March 2016 for further information on assessing significance.)
- The details and summary of findings of specialist reports requested by HWC;
- An assessment of the impact of the development on such identified heritage resources;
- An evaluation of the impact of the development on heritage resources relative to the sustainable social and economic benefits to be derived from the development;
- The results of consultation with communities and state bodies (e.g. local authorities) affected by the proposed development and other interested parties regarding the impact of the development on heritage resources including unabridged copies of the comments received;
- The consideration of alternatives and any plans for mitigation of any adverse effects during and after the completion of the proposed development;
- Conclusions;
- An integrated set of Recommendations;
- References.
- Relevant appendices which must include the full reports of any specialist assessments requested by HWC.

3. PHASING OF HERITAGE IMPACT ASSESSMENTS

In complex development applications, it is sometimes useful to submit an HIA in phases. The submission of a phased HIA is only permitted in circumstances which would warrant this. Such circumstances would generally (but not always) limited to the following:

- A large scale and/or long term subdivisional development which may follow a Package of Plans approach and where the development proposal cannot be sufficiently developed in the early phases of obtaining the broad land use rights or of disposing of the land parcels to different developers
- When it is prudent to obtain HWC's comment on the assessment of heritage resources and heritage indicators in order to strengthen a heritage argument for revised design proposals

[1] Either s38(4) or s38(8)

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HWC reserves the right to determine whether a phased HIA is acceptable on a case by case basis..

In such instances, HWC requires that the HIA is phased as follows:

Phase 1:

The **identification** of all heritage resources that will be impacted either directly or indirectly by the proposed development.

The **mapping** and spatialisation of these identified resources. At least two maps are required (a regional map and a more detailed map (project polygon)), these must illustrate the cadastral boundaries of the property concerned.

An assessment of the **significance** of these identified resources. (Refer to the HWC Guide for Grading: Implications and Management for further information on assessing significance.)

The results of **consultation** with communities and state bodies affected by the proposed development and other interested parties regarding the **identification** of heritage resources and the assessment of their significance;

The details and summary of **findings of specialist reports** requested by HWC

Heritage design indicators, required responses and recommendations, including possible demolitions and guidelines for interventions / new development. If the development process requires Interim Comment on the overall development proposal, the SDP must be developed to a sufficient degree to enable a high level heritage impact assessment.

It should be noted that since a Phase 1 HIA does not satisfy the requirements of section 38(3), it cannot be approved or refused by HWC and no Record of Decision or Final Comment can be issued. HWC will only provice an interim comment, endorsing the identification and mapping of heritage resources and the assessment of significance. HWC may also endorse the heritage indicators and broad development parameters in principle, so as to give guidance for the preparation of more detailed development proposals.

Phase 2:

In a Phased HIA approach, this is generally appropriate at the Precinct Planning Phase and entails:

An assessment of the impact of the development on identified heritage resources, incorporating the impact assessment of any specialist studies required by HWC;

An evaluation of the impact of the development on heritage resources relative to the sustainable social and economic benefits to be derived from the development;

If heritage resources are deemed to be negatively impacted, the consideration of alternatives and any plans for mitigation of any adverse effects during and after the completion of the proposed development;

The results of consultation with communities affected by the proposed development and other interested parties regarding the **impact** of the development on heritage resources including and unabridged copies of the comments received;

Conclusions, an Integrated set of Recommendations and relevant appendices which must include the full reports of any specialist assessments requested by HWC

In the case of a phased HIA, HWC will only issue a Record of Decision i.t.o. section 38(4) or a Final Comment i.t.o. section 38(8) after assessment of a Phase 2 report, once all the requirements of s38(3) have been satisfied.

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4. SPECIALIST STUDIES

Refer to the attached documentation on the requirements pertaining to specialist studies for archaeological and palaeontological reports.

5. CONCLUSION OF THE SECTION 38 PROCESS

Once an HIA has been submitted that complies with section 38(3), HWC is required to respond in terms of either:

Section 38(4): HWC must determine whether or not the development may proceed;

- Any limitations or conditions to be applied to the development;

- What general protections in terms of this Act apply, and what formal protections may be applied, to such heritage resources;

- Whether compensatory action is required in respect of any heritage resources damaged or destroyed as a result of the development; and

- Whether the appointment of specialists for further work is required as a condition of approval of the proposal.

Section 38(8): HWC must ensure that the evaluation fulfils its requirements and must make any comments and recommendations with regard to such development. These comments and recommendations must be taken into consideration by the relevant approving authority prior to the granting of consent.

It is important to note that, in terms of section 38(10), any person who has complied with the decision of a provincial heritage resources authority in terms of section 38(4) or other requirements referred to in section 38(8), must be exempted from compliance with all other general protections in terms of Chapter II Part 2 of the NHRA, including permits, but any existing heritage agreements made in terms of section 42 must continue to apply.

However, should HWC comments in terms of section 38(8) NOT be complied with, the general protections and permit requirements do still apply.

Any mitigation interventions that would normally fall within a general protection permitting process, that are approved in terms of a section 38 process, must be managed through the submission and approval of a Workplan (Refer to HWC Correspondence dated: August 2014 and May 2015).

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MGM 28.

Waterberg Platinum Mine: Mining Right Application

- Log in or register to post comments
- 509 reads

CaseViews

- **CaseHeader**(active tab)
- **LocationInfo**
- **Admin**
- **Images**

Status:

- Studies Submitted

HeritageAuthority(s):

- SAHRA
- LIHRA

Case Type:

- Section 38 (8) - Statutory Comment Required

Development Type:

- Minerals

ProposalDescription:
Waterberg JV Resources (Pty) Ltd holds various prospecting rights for platinum group metals and other minerals. Applications has been made for a Mining Right , Environmental Authorisation, Waste Management License and Water Use License Application in due course. The Project area is located 13km west of Senwabarwana, 74km north-west of Polokwane, 63km south of All Days and 83km west of Louis Trichardt, within the Blouberg Local Municipal area, Capricorn District. The properties include Rosamund 357 LR, Disseldorp 369 LR, Millstream 358 LR, Ketting 368 LR, Portion 1 of Goedetrouw 366 LR, Goedetrouw 366 LR, Early Dawn 361 LR, Old Langsine 360 LR, Langbryde 324 LR Lomondside 323 LR, Portion 1 of Norma 365 LR, Remaining Extent of Norma 365 LR and Portion 10, 12, 13 & 14 of Harriets Wish 393 LR.

Expanded_Motivation:
Waterberg JV Resources (Pty) Ltd holds various prospecting rights (LP30/5/2/2/1/11013PR; LP30/5/2/2/1/10667PR; LP30/5/2/2/1/10809PR; and LP30/5/2/2/1/10804PR) for platinum group metals and other minerals. The Project area is located 13km west of Senwabarwana, 74km north-west of Polokwane, 63km south of All Days and 83km west of Louis Trichardt, within the B ouberg Local Municipal area, Capricorn District. The properties include Rosamund 357 LR, Disseldorp 369 LR, Millstream 358 LR, Ketting 368 LR, Portion 1 of Goedetrouw 366 LR, Goedetrouw 366 LR, Early Dawn 361 LR, Old Langsine 360 LR, Langbryde 324 LR Lomondside 323 LR, Portion 1 of Norma 365 LR, Remaining Extent of Norma 365 LR and Portion 10, 12, 13 & 14 of Harriets Wish 393 LR (see figure 1 on the next page). The following applications and regulatory processes pertain the Waterberg Platinum Mine Project: - MRA in terms of Section 22 of the Mineral and Petroleum Resources Development Act (Act 28 of 2002) ("MPRDA") submitted on 27 August 2018 to the DMR; - EAA in terms of the National Environmental Management Act (NEMA) (Act 107 of 1998) (as amended) submitted on 27 August 2018 to the DMR; - Waste Management License Application ("WMLA") in terms of the National Environmental Management Waste Act (NEMWA) (Act 59 of 2008) to the DMR; and - IWULA in terms of the National Water Act (NWA) (Act 36 of 1998) to DWS in due course. Waterberg JV Resources intend to access the resource through underground methods with the support of ancillary activities including the following: • Mining shafts and portals (main, north, south, vent shafts) • Processing Plant • Magazine for explosives • Tailings storage facility and pipeline infrastructure • Clean and Dirty Water Management Infrastructure (pipelines, canals, pollution control dams) • Services (water purification, storage & bulk supply, 11kV electricity supply & substations, sewerage treatment) • Silos and Stockpiles (silos, product stockpile and waste rock dump) • Overland conveyor and road infrastructure • Offices, workshops, storage and associated infrastructure, • Construction Camp

ApplicationDate:
Tuesday, September 4, 2018 - 09:42

CaseID:
12878

OtherReferences:

Dept	CaseReference	DueDate	FinalDecision
	LP 30/5/1/2/2/10161MR	27/03/2020	Decision

Heritage Reports:

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HERITAGE IMPACT ASSESSMENT ON THE FARM KETTING 368 LR AND THE FARM DISSELDORP 369 LR, DONE FOR THE PLATINUM GROUP METALS WATERBERG PROSPECTING AREA, LIMPOPO PROVINCE
Heritage Reports
Palaeontological Impact Assessment: Desktop study
Integrated Heritage Impact Assessment
Proof of Correspondence
ReferenceList:
GISLayer - Palaeosensitivity Layer Courtesy of the Council for Geoscience http://www.geoscience.org.za/:

Google

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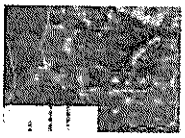
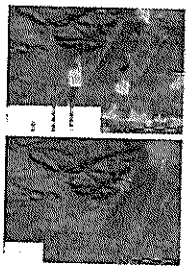
OfficialReference:
12878
Meetings:
ActionTags:

Action Requested	ActionStatus	DueDate
	Requested	

CaseOfficers:
Nokukhanya Khumalo
Author:
lizinda.dickson



PN MGM KAM



Additional Documents

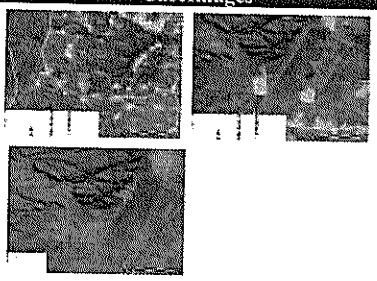
1. Appendix B of the IHIA - Declarations of Independence
2. Appendix C of the IHIA - AIA
3. Appendix D of the IHIA - PIA
4. Appendix E of the IHIA - Underground Blasting Addendum
5. Appendix F of the IHIA - Comments and Response Report related to Heritage
6. Notice of Amended IEA to accommodate SAHRA conditions
7. Copy of Amended IEA with SAHRA conditions

Search form

Search

Search

Case Images



Official Decisions & Comments

Date	DecStatus
08/05/2020	Interim Comment
16/09/2019	Interim Comment
07/08/2019	Interim Comment
04/10/2018	Interim Comment

PN MGM KAM

MGM 29

From: Joseph Manamela <joseph@nyewaneconsultants.co.za>
Sent: Monday, 03 May 2021 18:46
To: 'simon Manamela' <kgabomanaks@gmail.com>; 'Michael Choshi' <mikem.choshi@gmail.com>; 'Manamela Manamela (M)' <manamelam@openserve.co.za>; 'Marcus Kobo' <marcuspro.kobo@gmail.com>; 'choshimatthew' <choshimatthew@gmail.com>; 'Phuti Ngoepe' <pnmngoepe@yahoo.com>; 'thabo Phukubye' <kwenaphukubye74@gmail.com>; 'Lazio Lamola' <lamolaml@gmail.com>; 'Joseph Manamela' <josephm@nyewane.co.za>
Subject: RE: WJV Answering Affidfavit
Importance: High

Good evening all,

I am not sure of what the BoD planned regarding all the appeals and what the next steps are. What I have realised is that the 180 days for the appeal of the EA might have lapsed and we might have lost an opportunity. Again the appeal for the mining right is also in danger. This is the time that calls for the **SYSTEM THINKING.** We need everyone so that we can put our minds together for the same **PURPOSE.**

As a result, I once again request that we engage in a meeting and formulate **S&T (Strategy and Tactics)** to deal with the issues around the mining activities. If in agreement, I request the Chairperson to arrange a zoom meeting whenever everyone is available. **I THINK THERE IS A NEED FOR THIS ENGAGEMENT!!**

I hope that my request will be taken into consideration this time around.

Regards,

Joseph Manamela, Pr Tech Eng; Pr CPM
MSc, Project Management (MPM); MBA; B Com (FIM):
B-Tech: Civil Eng; NHD Civil Eng; ND Civil Eng; DipProjMan
MSAICE; MACPM; MPMI(SA); MPMI; A Arb
Managing Member
NYEWANE PROJECT CONSULTANTS CC
Telephone: (011) 395 1950
Facsimile: (011) 395 1970
Fax2Email: (086) 747 8851
Cellphone: (082) 561 5976
Email: josephm@nyewane.co.za
Website: www.nyewane.co.za

Pr MGM

-------- Original message --------
From: Joseph Manamela <josephm@nyewane.co.za>
Date: 2021/03/25 15:51 (GMT+02:00)
To: "'Manamela Manamela (M)'" <manamelam@openserve.co.za>
Cc: joseph@nyewaneconsultants.co.za

Subject: RE: Kgatlu Planning Meeting for GC Meeting

Dear sir,

That is a very big mistake that you guys are going to COMMIT and you will be a scapegoat at the end of the day. We offered assistance and it is not appreciated. The trap is not hidden but very visible. You guys are going straight into it. Manamela, whoever is advising you is not genuine!!! It is fine you can proceed with the way you see thing. But believe you me if things are going astray, you must expect a fierce challenge.

Regards,

Joseph Manamela, Pr Tech Eng; Pr CPM
MSc, Project Management (MPM); MBA; B Com (FIM);
B-Tech: Civil Eng; NHD Civil Eng; ND Civil Eng; DipProjMan
MSAICE; MACPM; MPMI(SA); MPMI; A Arb
Managing Member
NYEWANE PROJECT CONSULTANTS CC
Telephone: (011) 395 1950
Facsimile: (011) 395 1970
Fax2Email: (086) 747 8851
Cellphone: (082) 561 5976
Email: josephm@nyewane.co.za
Website: www.nyewane.co.za

PR MGM

From: Manamela Manamela (M) <manamelam@openserve.co.za>
Sent: 25 March 2021 03:28 PM
To: josephm@nyewane.co.za
Cc: joseph@nyewaneconsultants.co.za
Subject: RE: Kgatlu Planning Meeting for GC Meeting

Hi Joseph

The meeting will not be possible, all members are not available.

Thanks

Kind regards

Manamela Manamela

Service Manager

Wholesale Service Operations

The Core, 55 Oak Ave, Techno Park Centurion

T: 012 680 7787

C: 081 466 4778

P N

From: Joseph Manamela <josephm@nyewane.co.za>
Sent: Thursday, 25 March 2021 08:53
To: Manamela Manamela (M) <manamelam@openserve.co.za>
Cc: 'Joseph Manamela' <josephm@nyewane.co.za>; joseph@nyewaneconsultants.co.za
Subject: Kgatlu Planning Meeting for GC Meeting
Importance: High

Good morning,

As discussed yesterday, please arrange zoom meeting for today between 18h00 and 19h00. Please include Kgabo in the invitation.

Regards,

Joseph Manamela, Pr Tech Eng; Pr CPM

MSc, Project Management (MPM); MBA; B Com (FIM);

B-Tech: Civil Eng; NHD Civil Eng; ND Civil Eng; DipProjMan

MSAICE; MACPM; MPMI(SA); MPMI; A Arb

Managing Member

NYEWANE PROJECT CONSULTANTS CC

Telephone: (011) 395 1950

Facsimile: (011) 395 1970

Fax2Email: (086) 747 8851

Cellphone: (082) 561 5976

Email: josephm@nyewane.co.za

Website: www.nyewane.co.za

Pr MGM

MGM30

From: simon Manamela <kgabomanaks@gmail.com>
Sent: 11 July 2021 10:34 AM
To: Michael Choshi <mikem.choshi@gmail.com>; Manamela Manamela (M) <manamelam@openserve.co.za>; thabo Phukubye <kwenaphukubye74@gmail.com>; Marcus Kobo <marcuspro.kobo@gmail.com>; choshimatthew <choshimatthew@gmail.com>; kgatlugoedetrou@gmail.com
Subject: Re: Affidavits

Good day,

I require those documents by noon on Monday 12 July 2021.

Regards

Simon

On Sun, 11 Jul 2021 at 10:28, simon Manamela <kgabomanaks@gmail.com> wrote:

Good day Chairman and Secretary to the Board of Directors,

Please could you urgently provide me with the documents as requested and promised.

As a result of what transpired on Thursday 08 July 2021 and having had sight of the Mining Right awarded to WJV myself, I have done a Supplementary Affidavit for my Appeal and require those documents to make sure that I cover all items missed in my earlier submissions. Above all I request those documents as a bonafide resident of Kgatlu and as a birthright, which documents are now categorised as public by virtue of where they were filed.

Your urgent attention to the matter is of utmost importance.

Regards

Simon

On Mon, 31 May 2021 at 09:33, simon Manamela <kgabomanaks@gmail.com> wrote:

Good day Chairman and Secretary to the Board of Directors,

1. On Saturday the 24th April 2021, the GC Chairperson promised the community that he will get copies of the following documents within days
    a. Johan Jacobs' High Court Application,
    b. Michael Choshi's Mining Right Grant Appeal
    c. Mr. Ramphele's Judicial Review Application

MGM

PR

2. Yesterday afternoon the 30th May 2021, I visited the Choshi residence to ask copies from the Secretary to the General Council(cc'd herein) and said documents were not available.

3. I hereby request as a Kgatlu resident, that I be furnished with the following documents so as to keep abreast with developments that will ultimately change the course of history for future generations of Kgatlu –

   (i) A Court bundle for Johan Jacob's application on behalf of the community of Kgatlu,

   (ii) A bundle for Mr. Michael Choshi (on behalf of the people of Kgatlu) Mining Right Grant Appeal - founding affidavit and other such affidavits if same were done (supplementary, confirmatory, etc), WJV's Answering Affidavit and Mr. Michael Choshi's replying affidavit,

   (iii) A Court bundle regards Kgatlu's Judicial Review bundle

4. In all of the above paragraph 3 requests, soft copies of full paginated and indexed bundles will suffice

Hoping that my requests will be considered favorably.

Regards

Mr. K.S. Manamela

Kgatlu Resident

Pp

IN THE HIGH COURT OF SOUTH AFRICA

(LIMPOPO DIVISION, POLOKWANE)

CASE NO: _____/2021

In the matter between:

MINING AND ENVIRONMENTAL JUSTICE COMMUNITY NETWORK OF SOUTH AFRICA	First Applicant
GOEDETROUW 366 LR CONCERNED RESIDENTS	Second Applicant
LEWANENG TRADITIONAL COMMUNITY REPRESENTATIVE BODY (KGORO)	Third Applicant
GA-NGOEPE TRADITIONAL COMMUNITY REPRESENATIVE BODY (KGORO)	Fourth Applicant

and

WATERBERG JV RESOURCES	First Respondent
THE REGIONAL MANAGER, LIMPOPO REGION, DEPARTMENT OF MINERAL RESOURCES AND ENERGY	Second Respondent
THE DIRECTOR-GENERAL, DEPARTMENT OF MINERAL RESOURCES AND ENERGY	Third Respondent

PA MGM

MINISTER OF MINERAL RESOURCES AND ENERGY Fourth Respondent

MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT Fifth Respondent

CHIEF DIRECTOR, LIMPOPO OFFICE OF THE DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT Sixth Respondent

KGATLU REPRESENTATIVE STRUCTURES (GENERAL COUNCIL; BOARD OF DIRECTORS; KGATLU MINING FORUM) Seventh Respondent

LEWANENG CPA Eighth Respondent

BAHANANWA TRADITIONAL COUNCIL Ninth Respondent

BAKONE BA MATLALA-A-THABA TRADITIONAL COUNCIL Tenth Respondent

BLOUBERG LOCAL MUNICIPALITY Eleventh Respondent

EARLY DAWN CLUB COMMUNITY EXECUTIVE COMMITTEE Twelfth Respondent

---

RESOLUTION

Pr

IT IS HEREBY CONFIRMED THAT EXECUTIVE MEMBERS OF MEJCON-SA HAVE MANDATED OUR CHAIRPERSON,

MARGARET GHOGHA MOLOMO

TO DEPOSE AFFIDAVIT IN THE LITIGATION MATTER BETWEEN THE PEOPLE OF BLOUBERG AND MINING COMPANY CALLED WATERBERG JV (PTY) LTD.

THE CAUSE OF ACTION FOR IS APPLICATION IS THAT WATERBERG JV RESOURCES IS VIOLATING ENVIRONMENT AND LAND CONSTITUTIONAL RIGHTS OF THE COMMUNITIES AFFECTED.

WE TRUST THIS MANDATE IS IN ORDER.

SECRETARY

CHAIRPERSON

WITNESSES: 1. MS KATLEGO MALESA

2. BUSI BOHALE

PD MGM

IN THE HIGH COURT OF SOUTH AFRICA

(LIMPOPO DIVISION, POLOKWANE)

CASE NO: _____/2021

In the matter between:

MINING AND ENVIRONMENTAL JUSTICE COMMUNITY NETWORK OF SOUTH AFRICA First Applicant

GOEDETROUW 366 LR CONCERNED RESIDENTS Second Applicant

LEWANENG TRADITIONAL COMMUNITY REPRESENTATIVE BODY (KGORO) Third Applicant

GA-NGOEPE TRADITIONAL COMMUNITY REPRESENATIVE BODY (KGORO) Fourth Applicant

and

WATERBERG JV RESOURCES First Respondent

THE REGIONAL MANAGER, LIMPOPO REGION, DEPARTMENT OF MINERAL RESOURCES AND ENERGY Second Respondent

THE DIRECTOR-GENERAL, DEPARTMENT OF

PN MGM

MINERAL RESOURCES AND ENERGY	Third Respondent
MINISTER OF MINERAL RESOURCES AND ENERGY	Fourth Respondent
MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Fifth Respondent
CHIEF DIRECTOR, LIMPOPO OFFICE OF THE DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Sixth Respondent
KGATLU REPRESENTATIVE STRUCTURES (GENERAL COUNCIL; BOARD OF DIRECTORS; KGATLU MINING FORUM)	Seventh Respondent
LEWANENG CPA	Eighth Respondent
BAHANANWA TRADITIONAL COUNCIL	Ninth Respondent
BAKONE BA MATLALA-A-THABA TRADITIONAL COUNCIL	Tenth Respondent
BLOUBERG LOCAL MUNICIPALITY	Eleventh Respondent
EARLY DAWN CLUB COMMUNITY EXECUTIVE COMMITTEE	Twelfth Respondent

PN

Confirmatory affidavit

I, the undersigned,

Aubrey Langa

ID NO: 5611235806089

Do hereby make oath and state as follows:

1. I am an adult male residing in Stand 100, **Masehlaneng, Mokopane, Limpopo Province.**

2. The contents of this affidavit fall within my personal knowledge and are to the best of my knowledge and belief both true and correct.

3. I have read the Founding Affidavit of **MARGARET GHOGHA MOLOMO**and confirm its contents.

I certify that this was sworn to and signed by the deponent person before me at SEMENYA/SEKHUKHUNE on this 28 day of **July 2021** after I have asked him the following questions and obtained the following answers:

(a) Do you confirm that you know and understand the contents of this statement?

PN MGM

ANSWER: YES

(b) Do you have any objection in taking the prescribed oath?

ANSWER: NO

(c) Do you consider the prescribed oath as binding on my conscience?

ANSWER: YES

Deponent

AND THUS, SIGNED IN THE PRESENCE OF THE COMMISSIONER OF OATH

COMMISSIONER OF OATH'S SIGNATURE

FULL NAMES: MAGOAI MAPHUTI JOEL

CAPACITY/RANK: CLERK OF THE CRIMINAL

ADDRESS:

AREA:

CLERK OF THE COURT
Private Bag X5091, Bochum 0790
2021 -07- 28
CRIM SENWABARWANA-01
BLOUBERG MAGISTERIAL DISTRICT
SENWABARWANA MAGISTRATE COURT

P.N MGM

IN THE HIGH COURT OF SOUTH AFRICA

(LIMPOPO DIVISION, POLOKWANE)

CASE NO: _____/2021

In the matter between:

MINING AND ENVIRONMENTAL JUSTICE COMMUNITY NETWORK OF SOUTH AFRICA	First Applicant
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LEWANENG TRADITIONAL COMMUNITY REPRESENTATIVE BODY (KGORO)	Third Applicant
GA-NGOEPE TRADITIONAL COMMUNITY REPRESENATIVE BODY (KGORO)	Fourth Applicant

and

WATERBERG JV RESOURCES	First Respondent
THE REGIONAL MANAGER, LIMPOPO REGION, DEPARTMENT OF MINERAL RESOURCES AND ENERGY	Second Respondent
THE DIRECTOR-GENERAL, DEPARTMENT OF MINERAL RESOURCES AND ENERGY	Third Respondent

K.S.
TCM

PN MGM

MINISTER OF MINERAL RESOURCES AND ENERGY	Fourth Respondent
MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Fifth Respondent
CHIEF DIRECTOR, LIMPOPO OFFICE OF THE DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Sixth Respondent
KGATLU REPRESENTATIVE STRUCTURES (GENERAL COUNCIL; BOARD OF DIRECTORS; KGATLU MINING FORUM)	Seventh Respondent
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BAHANANWA TRADITIONAL COUNCIL	Ninth Respondent
BAKONE BA MATLALA-A-THABA TRADITIONAL COUNCIL	Tenth Respondent
BLOUBERG LOCAL MUNICIPALITY	Eleventh Respondent
EARLY DAWN CLUB COMMUNITY EXECUTIVE COMMITTEE	Twelfth Respondent

---

CONFIRMATORY AFFIDAVIT

K.S.
15m

PN MGM

I, the undersigned,

Kgabo Simon Manamela

ID NO:7612235433088

Do hereby make oath and state as follows:

1. I am an adult male residing Stand No. 58, Goedetrouw 366 LR Village, **Limpopo Province.**

2. The contents of this affidavit fall within my personal knowledge and are to the best of my knowledge and belief both true and correct.

3. I have read the Founding Affidavit of **MARGARET GHOGHA MOLOMO**and confirm its contents.

I certify that this was sworn to and signed by the deponent person before me at ALBERTON on this 28th day of **July 2021** after I have asked him the following questions and obtained the following answers:

(a) Do you confirm that you know and understand the contents of this statement?

ANSWER: YES

(b) Do you have any objection in taking the prescribed oath?

ANSWER: NO

K.S.T.

PM MGM

2. Yesterday afternoon the 30th May 2021, I visited the Choshi residence to ask copies from the Secretary to the General Council(cc'd herein) and said documents were not available.

3. I hereby request as a Kgatlu resident, that I be furnished with the following documents so as to keep abreast with developments that will ultimately change the course of history for future generations of Kgatlu –

   (i) A Court bundle for Johan Jacob's application on behalf of the community of Kgatlu,

   (ii) A bundle for Mr. Michael Choshi (on behalf of the people of Kgatlu) Mining Right Grant Appeal - founding affidavit and other such affidavits if same were done (supplementary, confirmatory, etc), WJV's Answering Affidavit and Mr. Michael Choshi's replying affidavit,

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4. In all of the above paragraph 3 requests, soft copies of full paginated and indexed bundles will suffice

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Regards

Mr. K.S. Manamela

Kgatlu Resident

Pp

IN THE HIGH COURT OF SOUTH AFRICA

(LIMPOPO DIVISION, POLOKWANE)

CASE NO: _____/2021

In the matter between:

MINING AND ENVIRONMENTAL JUSTICE COMMUNITY NETWORK OF SOUTH AFRICA	First Applicant
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GA-NGOEPE TRADITIONAL COMMUNITY REPRESENATIVE BODY (KGORO)	Fourth Applicant

and

WATERBERG JV RESOURCES	First Respondent
THE REGIONAL MANAGER, LIMPOPO REGION, DEPARTMENT OF MINERAL RESOURCES AND ENERGY	Second Respondent
THE DIRECTOR-GENERAL, DEPARTMENT OF MINERAL RESOURCES AND ENERGY	Third Respondent

PA MGM

MINISTER OF MINERAL RESOURCES AND ENERGY Fourth Respondent

MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT Fifth Respondent

CHIEF DIRECTOR, LIMPOPO OFFICE OF THE DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT Sixth Respondent

KGATLU REPRESENTATIVE STRUCTURES (GENERAL COUNCIL; BOARD OF DIRECTORS; KGATLU MINING FORUM) Seventh Respondent

LEWANENG CPA Eighth Respondent

BAHANANWA TRADITIONAL COUNCIL Ninth Respondent

BAKONE BA MATLALA-A-THABA TRADITIONAL COUNCIL Tenth Respondent

BLOUBERG LOCAL MUNICIPALITY Eleventh Respondent

EARLY DAWN CLUB COMMUNITY EXECUTIVE COMMITTEE Twelfth Respondent

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RESOLUTION

Pp

IT IS HEREBY CONFIRMED THAT EXECUTIVE MEMBERS OF MEJCON-SA HAVE MANDATED OUR CHAIRPERSON,

MARGARET GHOGHA MOLOMO

TO DEPOSE AFFIDAVIT IN THE LITIGATION MATTER BETWEEN THE PEOPLE OF BLOUBERG AND MINING COMPANY CALLED WATERBERG JV (PTY) LTD.

THE CAUSE OF ACTION FOR IS APPLICATION IS THAT WATERBERG JV RESOURCES IS VIOLATING ENVIRONMENT AND LAND CONSTITUTIONAL RIGHTS OF THE COMMUNITIES AFFECTED.

WE TRUST THIS MANDATE IS IN ORDER.

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CHAIRPERSON

WITNESSES: 1. MS KATLEGO MALESA

2. BUSI BOHALE

PP MGM

IN THE HIGH COURT OF SOUTH AFRICA

(LIMPOPO DIVISION, POLOKWANE)

CASE NO: _____/2021

In the matter between:

MINING AND ENVIRONMENTAL JUSTICE COMMUNITY NETWORK OF SOUTH AFRICA First Applicant

GOEDETROUW 366 LR CONCERNED RESIDENTS Second Applicant

LEWANENG TRADITIONAL COMMUNITY REPRESENTATIVE BODY (KGORO) Third Applicant

GA-NGOEPE TRADITIONAL COMMUNITY REPRESENATIVE BODY (KGORO) Fourth Applicant

and

WATERBERG JV RESOURCES First Respondent

THE REGIONAL MANAGER, LIMPOPO REGION, DEPARTMENT OF MINERAL RESOURCES AND ENERGY Second Respondent

THE DIRECTOR-GENERAL, DEPARTMENT OF

PN MGM

MINERAL RESOURCES AND ENERGY	Third Respondent
MINISTER OF MINERAL RESOURCES AND ENERGY	Fourth Respondent
MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Fifth Respondent
CHIEF DIRECTOR, LIMPOPO OFFICE OF THE DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Sixth Respondent
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BLOUBERG LOCAL MUNICIPALITY	Eleventh Respondent
EARLY DAWN CLUB COMMUNITY EXECUTIVE COMMITTEE	Twelfth Respondent

PN

Confirmatory affidavit

I, the undersigned,

Aubrey Langa

ID NO: 5611235806089

Do hereby make oath and state as follows:

1. I am an adult male residing in Stand 100, **Masehlaneng, Mokopane, Limpopo Province.**

2. The contents of this affidavit fall within my personal knowledge and are to the best of my knowledge and belief both true and correct.

3. I have read the Founding Affidavit of **MARGARET GHOGHA MOLOMO**and confirm its contents.

I certify that this was sworn to and signed by the deponent person before me at SEETWAGARWANE on this 28 day of **July 2021** after I have asked him the following questions and obtained the following answers:

(a) Do you confirm that you know and understand the contents of this statement?

PN MGM

ANSWER: YES

(b) Do you have any objection in taking the prescribed oath?

ANSWER: NO

(c) Do you consider the prescribed oath as binding on my conscience?

ANSWER: YES

Deponent

AND THUS, SIGNED IN THE PRESENCE OF THE COMMISSIONER OF OATH

COMMISSIONER OF OATH'S SIGNATURE

FULL NAMES: MACHAI MAPHUTI JOEL

CAPACITY/RANK: CLERK OF THE CRIMINAL

ADDRESS:

AREA:

CLERK OF THE COURT
Private Bag X5001, Bochum 0790
2021 -07- 28
CRIM SENWABARWANA GT
BLOUBERG MAGISTERIAL DISTRICT
SENWABARWANA MAGISTRATE COURT

PN MCM

IN THE HIGH COURT OF SOUTH AFRICA

(LIMPOPO DIVISION, POLOKWANE)

CASE NO: _____/2021

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MINING AND ENVIRONMENTAL JUSTICE COMMUNITY NETWORK OF SOUTH AFRICA	First Applicant
GOEDETROUW 366 LR CONCERNED RESIDENTS	Second Applicant
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and

WATERBERG JV RESOURCES	First Respondent
THE REGIONAL MANAGER, LIMPOPO REGION, DEPARTMENT OF MINERAL RESOURCES AND ENERGY	Second Respondent
THE DIRECTOR-GENERAL, DEPARTMENT OF MINERAL RESOURCES AND ENERGY	Third Respondent

K.S. TCM

PN MGM

MINISTER OF MINERAL RESOURCES AND ENERGY	Fourth Respondent
MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Fifth Respondent
CHIEF DIRECTOR, LIMPOPO OFFICE OF THE DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Sixth Respondent
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BAHANANWA TRADITIONAL COUNCIL	Ninth Respondent
BAKONE BA MATLALA-A-THABA TRADITIONAL COUNCIL	Tenth Respondent
BLOUBERG LOCAL MUNICIPALITY	Eleventh Respondent
EARLY DAWN CLUB COMMUNITY EXECUTIVE COMMITTEE	Twelfth Respondent

---

CONFIRMATORY AFFIDAVIT

K.S.
ICM

PN MGM

I, the undersigned,

Kgabo Simon Manamela

ID NO:7612235433088

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2. The contents of this affidavit fall within my personal knowledge and are to the best of my knowledge and belief both true and correct.

3. I have read the Founding Affidavit of **MARGARET GHOGHA MOLOMO** and confirm its contents.

I certify that this was sworn to and signed by the deponent person before me at ALBERTON on this 28th day of **July 2021** after I have asked him the following questions and obtained the following answers:

(a) Do you confirm that you know and understand the contents of this statement?

ANSWER: YES

(b) Do you have any objection in taking the prescribed oath?

ANSWER: NO

KS
TCM

DN MGM

(c) Do you consider the prescribed oath as binding on my conscience?

ANSWER: YES

Deponent

AND THUS, SIGNED IN THE PRESENCE OF THE COMMISSIONER OF OATH

SOUTH AFRICAN POLICE SERVICES
CLIENT SERVICE CENTRE
2021 -07- 28
ALBERTON
SOUTH AFRICAN POLICE SERVICES

COMMISSIONER OF OATH'S SIGNATURE

FULL NAMES: Thokozile Ngwenya

CAPACITY/RANK: Sgt

ADDRESS: 56 Van Rietbeek Av.

AREA: Alberton.

K.S. Tem

PN MGM

IN THE HIGH COURT OF SOUTH AFRICA

(LIMPOPO DIVISION, POLOKWANE)

CASE NO: _____/2021

In the matter between:

MINING AND ENVIRONMENTAL JUSTICE COMMUNITY NETWORK OF SOUTH AFRICA First Applicant

GOEDETROUW 366 LR CONCERNED RESIDENTS Second Applicant

LEWANENG TRADITIONAL COMMUNITY REPRESENTATIVE BODY (KGORO) Third Applicant

GA-NGOEPE TRADITIONAL COMMUNITY REPRESENATIVE BODY (KGORO) Fourth Applicant

and

WATERBERG JV RESOURCES First Respondent

THE REGIONAL MANAGER, LIMPOPO REGION, DEPARTMENT OF MINERAL RESOURCES AND ENERGY Second Respondent

THE DIRECTOR-GENERAL, DEPARTMENT OF

Confirmatory affidavit

I, the undersigned,

Johannes Senosha

ID: 7610265728088

Do hereby make oath and state as follows:

1. I am an adult male residing at Stand number 111, LewanengVillage ,Senwabarwana , Limpopo Province.

2. The contents of this affidavit fall within my personal knowledge and are to the best of my knowledge and belief both true and correct.

3. I have read the Founding Affidavit of **MARGARET GHOGHA MOLOMO** and confirm its contents.

I certify that this was sworn to and signed by the deponent person before me at SEMUABA RIVIERA on this 28 day of **July 2021** after I have asked him the following questions and obtained the following answers:

(a) Do you confirm that you know and understand the contents of this statement?

ANSWER: YES

PR MGM

(b) Do you have any objection in taking the prescribed oath?

ANSWER: No

(c) Do you consider the prescribed oath as binding on my conscience?

ANSWER: Yes

Deponent

AND THUS, SIGNED IN THE PRESENCE OF THE COMMISSIONER OF OATH

COMMISSIONER OF OATH'S SIGNATURE

FULL NAMES: MAGOAI MABHUTI JUDE

CAPACITY/RANK: CLERK OF THE CRIMINAL [illegible]

ADDRESS:

AREA:

CLERK OF THE COURT
Private Bag X5001, Benoni 1500
2021 -07- 28
CRM-SENWABARWANA-01
BLOUBERG MAGISTERIAL DISTRICT
SENWABARWANA MAGISTRATE COURT

PM MGM

Lewaneng Village

P O Box 562

Juno

0748

28 July 2021

Resolution

Lehono re kwane ka di 27/07/2021 mo kopanong ya setshaba(kgoro) gore re isa Mine Court (JV Mine wa Waterberg).

Re kwane rele setshaba ebile re dumelelane ka go kgetha Mr Johannes Nare Senosha gore a saene di pampiri tsa gcya court.

Re a leboga.

Mongwaledi wa kgoro

Mr Johannes Senosha

Modula setulo

Mr Simon Ngoepe

S.n

Dihlatsi tsa kgoro

Mr Johannes Phokojoe

K.J.P.

Mrs Johanna Ramokgaba

K.J.Ramokgaba

Miss Johanna Senosha

Senosha CJ

MGM

Por

ROLL-CALL MEETING (LABOBEDI)

27 July 2021

	Names and Surname		Signature	Cellphone no
1.	Senosha	Hare Johannes		067 3507480
2.	Ramokgaba	Thuti Thomas	T.T.P	076 218 5993
3.	Lemmola	Phineas	P.L	079353 7173
4.	Phokgoe	Geela Jemarives	G.J.P.	0791372623
5.	Phukubye	Philemon	P	0796404171
6.	Masebe	Elijahus	Masebe	0836575412
7.	Ramoroka	Mare Jessye		0715717224
8.	Senosha	Samuel		0739851947
9.	Mokata	Petrus		072 987 7388
10.	Ramokgaba	Thuti		072 7029033
11.	Mgoepe	Paulus		0827123599
12.	Ramoroka	Maria	Ma Ramoroka	0780038647
13.	Senosha	Chuene	Senosha C J	
14.	Majela	Jemina	Majela J	
15.	Mmakgabo	Kgatla	Kgatla	071 225 4656
16.	Rapheeha	Jeremiah	M. J. R.	
17.	Ngwepe	Flora	M. F. Ngwepe	0791060337
18.	Ramoroka	Salphy	Ramoroka K.S.	0782414202
19.	Senosha	L.S.Beth	Senosha LM	
20.	Ramokgaba	Kwena	K.J Ramokgaba	0648667048
21.	Ramokgaba	Johannes	M J	0798425839
22.				
23.				
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26.				
27.				
28.				
29.				
30.				

MBM

PK

IN THE HIGH COURT OF SOUTH AFRICA

(LIMPOPO DIVISION, POLOKWANE)

CASE NO: _____/2021

In the matter between:

MINING AND ENVIRONMENTAL JUSTICE COMMUNITY NETWORK OF SOUTH AFRICA First Applicant

GOEDETROUW 366 LR CONCERNED RESIDENTS Second Applicant

LEWANENG TRADITIONAL COMMUNITY REPRESENTATIVE BODY (KGORO) Third Applicant

GA-NGOEPE TRADITIONAL COMMUNITY REPRESENATIVE BODY (KGORO) Fourth Applicant

and

WATERBERG JV RESOURCES First Respondent

THE REGIONAL MANAGER, LIMPOPO REGION, DEPARTMENT OF MINERAL RESOURCES AND ENERGY Second Respondent

THE DIRECTOR-GENERAL, DEPARTMENT OF

MINERAL RESOURCES AND ENERGY	Third Respondent
MINISTER OF MINERAL RESOURCES AND ENERGY	Fourth Respondent
MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Fifth Respondent
CHIEF DIRECTOR, LIMPOPO OFFICE OF THE DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Sixth Respondent
KGATLU REPRESENTATIVE STRUCTURES (GENERAL COUNCIL; BOARD OF DIRECTORS; KGATLU MINING FORUM)	Seventh Respondent
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BLOUBERG LOCAL MUNICIPALITY	Eleventh Respondent
EARLY DAWN CLUB COMMUNITY EXECUTIVE COMMITTEE	Twelfth Respondent

PR MAY

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(LIMPOPO DIVISION, POLOKWANE)

CASE NO: _____/2021

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MINING AND ENVIRONMENTAL JUSTICE COMMUNITY NETWORK OF SOUTH AFRICA First Applicant

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GA-NGOEPE TRADITIONAL COMMUNITY REPRESENATIVE BODY (KGORO) Fourth Applicant

and

WATERBERG JV RESOURCES First Respondent

THE REGIONAL MANAGER, LIMPOPO REGION, DEPARTMENT OF MINERAL RESOURCES AND ENERGY Second Respondent

THE DIRECTOR-GENERAL, DEPARTMENT OF

Confirmatory affidavit

I, the undersigned,

Arios Raromoroka

ID NO7207285417089

Do hereby make oath and state as follows:

1. I am an adult male residing at House Number 218 Early Dawn Farm,Senwabarwana , Limpopo Province.

3. The contents of this affidavit fall within my personal knowledge and are to the best of my knowledge and belief both true and correct.

3. I have read the Founding Affidavit of MARGARET GHOGHA MOLOMOand confirm its contents.

I certify that this was sworn to and signed by the deponent person before me at SENWABARWANA on this 28 day of **July 2021** after I have asked him the following questions and obtained the following answers:

(a) Do you confirm that you know and understand the contents of this statement?

ANSWER: YES

(b) Do you have any objection in taking the prescribed oath?

ANSWER: NO

(c) Do you consider the prescribed oath as binding on my conscience?

ANSWER: YES

Deponent

AND THUS, SIGNED IN THE PRESENCE OF THE COMMISSIONER OF OATH

COMMISSIONER OF OATH'S SIGNATURE

FULL NAMES: MAGOA MAPHUTI JOE

CAPACITY/RANK: CLERK OF THE CRIMINAL

ADDRESS:

AREA:

CLERK OF THE COURT
Private Bag X5001, Bochum 0790
2021 -07- 28
BLOUBERG MAGISTERIAL DISTRICT
SENWABARWANA MAGISTRATE COURT