



# mineral resources & energy

Department  
Minerals Resources and Energy  
REPUBLIC OF SOUTH AFRICA

Private Bag X33, Welkom, 9460, Tel: 057 391 1323, Fax: 057 357 6003  
The Strip Building, 314 Stateway Street, Welkom, 9459

ANNEXE B

## Amendment of an Environmental Authorisation in terms of

The National Environmental Management Act, 1998 (Act 107 of 1998) as amended ("NEMA") and the 2014 EIA Regulations as amended

Mineral: Diamonds  
Magisterial District of Kroonstad  
Free State Region

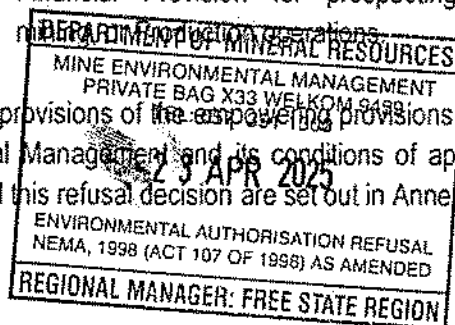
Reference number:	(FS)30/5/1/2/3/2/1(12) EM
Last amended:	Second amendment
Holder of authorisation:	De Beers Consolidated Mines (Pty) Ltd
Location of activities:	Farm Voorspoed 2480 (Consolidation of Subdivision 1 of the farm Voorspoed 401, subdivision 1 of the Farm Geldenhuys 1477 And Subdivision 2 of the farm Morgenster 772), Voorspoed 401, Geldenhuys 1477 and Morgenster 772

### DECISION

#### ACRONYMS

- EIA : Environmental Impact Assessment  
DEPARTMENT : Department of Mineral Resources and Energy  
EA : Environmental Authorisation  
EMPr : Environmental Management Programme  
I&AP : Interested and Affected Parties  
EIA REGULATIONS : EIA Regulations, 2014  
MPRDA : Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002), as amended  
NEMA : National Environmental Management Act, 1998 (Act 107 of 1998), as amended  
EIA REGULATIONS : EIA Regulations, 2014 as amended  
NWA : National Water Act, 1998 (Act 36 of 1998) as amended  
FINANCIAL PROVISIONING REGULATIONS, 2015: The National Environmental Management Act, 1998 (Act 107 of 1998), Regulations Pertaining to the Financial Provision for prospecting, Exploration, and Production operations

The proposed amendment is not consistent with the provisions of the empowering provisions. The applicant must comply with the approved 2010 Environmental Management and its conditions of approval. Details regarding the basis on which the Department reached this refusal decision are set out in Annexure 1 and 2 of this EA.



## ACTIVITY APPLIED FOR

By virtue of the powers conferred on it by NEMA, the department hereby refuse an amended Environmental Authorization to De Beers Consolidated Mines (Pty) Ltd with the following contact details –

The Directors  
 De Beers Consolidated Mines (Pty) Ltd  
 P O Box 1964  
 Kroonstad  
 9500

Attention : Mr. P.E. Jordaan  
 Cell : 083 682 4089  
 Tell : 018 478 6519  
 Email : petrus.jordaan@debeersgroup.com

to undertake the following activities.

<p><b>No listed activities were triggered by this application</b></p> <p><i>Regulation 31 - relates to amendment where a change of scope of a valid environmental authorisation occur, where such change will result in an increased level or nature of impact where such level or nature of impact was not-</i></p> <p><i>(a) assessed and included in the initial application for environmental authorisation; or</i></p> <p><i>(b) taken into consideration in the initial environmental authorisation; and the change does not, on its own, constitute a listed or specified activity.</i></p>	<p>The company through regulation 31 application seeks to remove three (3) conditions which relates to the backfilling of the void created by diamond mining activities as outlined on conditions (d), (f) and (g) of the 2010 EMPr conditions of approval.</p> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p><b>DEPARTMENT OF MINERAL RESOURCES</b>                  MINE ENVIRONMENTAL MANAGEMENT                  PRIVATE BAG X33 WELKOM 9459                  TEL: 057 391 1300</p> <p style="font-size: 1.2em; font-weight: bold;">23 APR 2025</p> <p>ENVIRONMENTAL AUTHORISATION REFUSAL                  NEMA, 1998 (ACT 107 OF 1998) AS AMENDED</p> <p><b>REGIONAL MANAGER: FREE-STATE REGION</b></p> </div>
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Detailed description of the activity are as follows:

This is an application for amendment of an Environmental Authorisation and Environmental Management Programme in terms of Chapter 5 of the 2014 EIA Regulations as amended by (GN 982). It is lodged in terms of Regulation 31 (a) and (b) of the 2014 EIA Regulations as amended. The company through regulation 31 application seeks to remove three (3) conditions which relates to the backfilling of the void created by diamond mining activities as outlined on conditions (d), (f) and (g) of the 2010 EMPr conditions of approval.

The conditions which the holder of the Mining Right seek to remove from the 2010 conditions of approval are listed below:

- Condition (d): All mine waste (suitable for rehabilitation) must be taken back to the excavation area for backfilling purposes. Rehabilitation of the mining area must be done concurrently with mining activities (whenever and wherever possible).
- Condition (f): Dump structures must not be left on the surface, this includes topsoil stockpiles, overburden stockpiles, waste rock stockpiles, tailing dumps and slime dams.
- Condition (g): All excavation must be backfilled to the natural surface level; if a bulk factor exists it must be accommodated on the total area of disturbance.

## Background

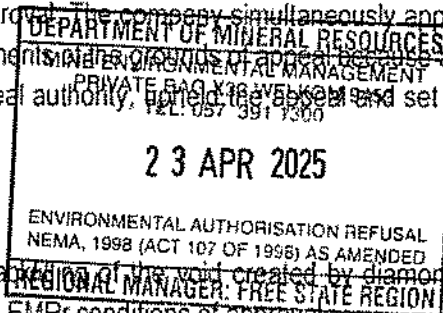
De Beers Consolidated Mines (Pty) Ltd is an opencast mining operation authorized to mine diamonds on the aforementioned properties. The mining right was issued for a period of seventeen (17) years starting from 10 October 2007 to 9 October 2023. The mining right has lapsed. The environmental management programme for the company was approved on 22 July 2010. The mining activities was conducted using the opencast mining method. The processing plant has been removed from the site, but the mining pit, slime dams and tailing dumps are yet to be rehabilitated. The holder of the mining right was required to conduct rehabilitation work as stipulated on the 2010 conditions of approval. The 2010 conditions of approval compel the company to backfill the mining pit using the same materials removed from the pit as outlined on conditions (d), (f) and (g).

Prior to this application the holder of the right was granted an Environmental authorisation on 17 February 2020 which compelled the company to backfill the mining void as outlined on the 2010 conditions of approval. The application triggered activity 22 of the 2014 EIA Regulations listing notice 1. The current regulation 31 application was lodged immediately after the 17 February EA decision. In the previous set aside EA application, the company proposed not to backfill the pit and the preferred decommissioning alternatives entailed the development of a pit lake wherein the pit will be left to fill with water.

The company also proposed the construction of 2m high waste rock barrier at top of remaining ramps, erection a security fence 10m outside the zone of relaxation around the pit, the construction of a storm a 5m deep trench and a 5m high enviro-berm around the open pit, outside the security fence will be implemented in this option. The installation of security cameras and alarms to inform the mine of any trespassing onto the pit was also proposed and that security guards will also monitor access to the pit until rehabilitation plan is implemented. The DMRE did not agree with the proposal and the company was instructed to rehabilitate the mining area in line with the 2010 approved EMPr and the conditions of approval. The company simultaneously appealed the EA decision, and the appeal authority did not decide on the merits of the appeal. The company's activity 22 was delisted from the listing notices. Nevertheless, the appeal authority upheld the appeal and set aside the EA.

### The actual proposed activities:

The removal of three (3) conditions which relates to the backfilling of the void created by diamond mining activities as outlined on conditions (d), (f) and (g) of the 2010 EMPr conditions of approval.



### Site description and location:

The farm Voorspoed 2480 (Consolidation of Subdivision 1 of the farm Voorspoed 401, subdivision 1 of the Farm Geldenhuys 1477 And Subdivision 2 of the farm Morgenster 772), Voorspoed 401, Geldenhuys 1477 and Morgenster 772 in the magisterial district of Kroonstad.

## ANNEXURE 1: REASONS FOR THE DECISION

### 1. 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 is set out below.

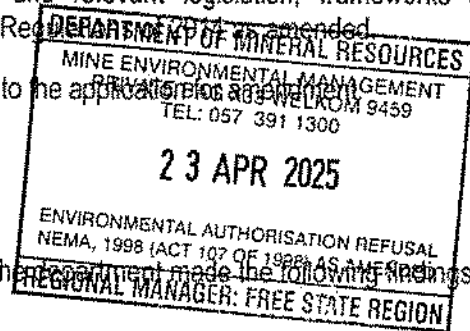
- a) Regulation 31 application for amendment received by the department on 10 March 2020.
- b) The document submitted by the applicant in support of the amendment application on 13 June 2023.
- c) The basic assessment report submitted in support of the decommissioning environmental authorisation on 07 October 2019.
- d) Environmental Management programme approved in 2010 read together with the conditions of approval.
- e) Geotechnical closure report dated January 2024 conducted by SRK Consulting submitted to the DMRE in relation to the application for amendment.
- f) Comment received from Department of Water and Sanitation in compliance with section 24(O) of the National Environmental Management Act, 1998 as amended relating to the amendment application.
- g) The objectives and requirements of the applicable and relevant legislation, frameworks and development plans, policies and guidelines, and the EIA Regulations as amended.
- h) Comments from the principal inspector of mines in relation to the application for amendment.

### 2. Findings

After consideration of the information and factors listed above, the Department made the following findings –

- a) The review of the documents submitted to the DMRE on 13 June 2023 revealed that the Environmental Assessment practitioner used the documents submitted in support of the decommissioning application lodged in 2019. The Environmental authorisation for the application was granted on 17 February 2020.
- b) The 2019 reports presented different scenarios or alternatives relating to the rehabilitation of the quarry and the same scenarios have been included in the current application. Amongst the options presented by the EAP include the following:

- Option 1: Preferred pit lake alternative.



This is the preferred decommissioning alternatives which entails the development of a pit lake under current condition. The pit will be left to fill with /re water by ground ingress, rainfall discharge directly into the pit and a local runoff from the pit area with normal evaporation. Different security measures such as the construction of 2m high waste rock barrier at top of remaining ramps, erection a security fence 10m outside the zone of relaxation around the pit, the construction of a storm a 5m deep trench and a 5m high enviroberm around the open pit, outside the security fence will be implemented in this option. The installation of security cameras and alarms to inform the mine of any trespassing onto the pit. Security guards will also monitor the access to the pit until rehabilitation plan is implemented.

➤ **Options 2: Open pit backfilling alternatives:**

This entails the backfilling of the open pit primarily with materials removed from the pit during mining. The remaining residue deposits will therefore be reshaped, covered with cover materials and/or soil and rehabilitated with a vegetation cover. It was stipulated in the BAR that apart from the major difference compared to the preferred option, the rehabilitation, management and monitoring commitments for this option are the same as for the preferred alternatives.

➤ **Option 3: No go alternatives:**

In this option the mine will be abandoned without any rehabilitation of the areas affected by mining activities. It will result in dangerous environment where neither the open pit nor the steep slopes of the mine residue deposits are secured and protected to prevent people from being harmed. The area disturbed by mining will thus degrade overtime through erosion and invader plants invasions, while potential pollutants from the mine residue deposits and other polluted areas such as workshops will be spilled into the surrounding environment resulting in land pollution as well as surface and ground water pollution.

- c) After thorough consideration of the 2020 alternatives the Department authorised option 2 which entails the backfilling of the open pit primarily with materials removed from the pit during mining. The remaining residue deposits after backfilling must therefore be reshaped, covered with cover materials and/or soil and rehabilitated with a vegetation cover.
- d) Section 7.2 of the report submitted in support of the removal of the open pit as follows:

<p>DEPARTMENT OF MINERAL RESOURCES          MINE ENVIRONMENTAL MANAGEMENT          PRIVATE BAG 303 WERKLOM 9435          TEL: 057 391 1300  <b>23 APR 2025</b>          ENVIRONMENTAL AUTHORISATION REFUSAL          NEMA 1998 (AS AMENDED 1996) AS AMENDED          REGIONAL MANAGER: FREE STATE REGION</p>
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➤ **Scenario 1: The original pit lake option.**

This involves allowing the open pit to recharge and the development of a pit lake under the pit's current condition. The assumption is that the pit will be filled with rainfall water, runoff from dirty footprint area, groundwater ingress and evaporation. Clean runoff will be diverted around the pit using the waste rock dump and berms and barriers.

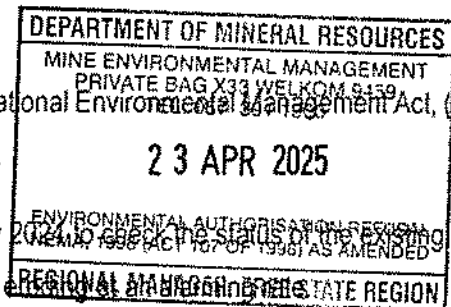
➤ **Scenario 2: The enhanced pit lake development option.**

In addition, with the water ingress option from scenario 1, runoff from the catchment area will be engineered to run into the pit. Engineering work will enhance runoff of water into the pit and the pit lake will develop within a shorter time or period. Scenario 2 will be supported by the final surface water management plan.

➤ **Scenario 3: The excavation backfilling option.**

This will entail using the materials removed from the pit as the main source of materials for backfilling. This option or process is in line with the conditions of approval as contained in the 2010 EMP conditions of approval.

- e) In the current submission the applicant is preferring scenario 1 and 2 due to low cost and least environmental impacts. Scenario 3 is not preferred due to excessive cost and potential impacts. The DMRE is not in agreement with the submission because the potential impact the applicant/holder refer to are not prevalent within the diamond mining sector.
- f) The application is not consistent with the provisions of the National Environmental Management Act, (Act 107 of 1998) as amended (herein referred to as the NEMA).
- g) A pre-approval inspection was conducted on the 26<sup>th</sup> of July 2024, to check the status of the existing pit in the mining area, and it was established that the pit wall is eroding.
- h) The Geotechnical study conducted for the application confirmed that the pit will continue eroding until a point of stability is reached at a certain time, but the study does not indicate when that point of stability will be reached.
- i) It was also established that there are currently enough materials for the backfilling of the pit within the mining area.
- j) The review of the report also revealed that the decision to remove the three (3) conditions of approval is solely based on the cost the company will incur in backfilling the pit and that the company did not thoroughly consider sustainable development principle as contained in the NEMA.

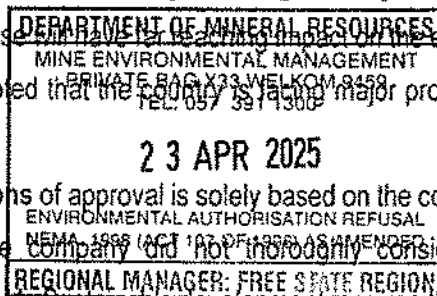


**3. Reasons for amendment refusal**

3.1 Amongst the presented scenarios on 2.2 (d) above the Department of Mineral Resources and Energy (herein referred to as the DMRE) is in support of Scenario 3 (the excavation backfilling option) which entail the backfilling of the pit with materials removed from the pit for the reasons presented below:

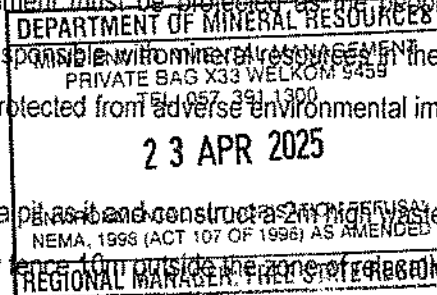
3.1.1 The application is not consistent with the provisions of the National Environmental Management Act, (Act 107 of 1998) as amended (herein referred to as the NEMA).

- 3.1.2 Section 28 of the NEMA as amended stipulates that "Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment". The holder of the right was authorised to conduct mining activities at the properties listed above and the environmental degradation currently in place is a result of mining activities which took place hence conditions (d), (f) and (g) was included in the conditions of approval to ensure compliance with section 28 of the NEMA which specifically focusses on the **duty of care and remediation of environmental damage**.
- 3.1.3 Section 2 of the NEMA states that environmental management must place people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural and social interests equitably and that development must be socially, environmentally and economically sustainable. These principles will not be achieved if the pit is not backfilled, and the surrounding community will further be exposed to social issues emanating from illegal mining. If not backfilled the pit will moreover attract illegal miners, and these miners have a negative impact on the environment and the surrounding communities. It should be noted that the company is facing a major problem relating to illegal mining.
- 3.1.4 The decision to remove the three (3) conditions of approval is solely based on the cost the company will incur in backfilling the pit and that the company did not thoroughly consider sustainable development principle as contained in the NEMA. Sustainable development requires the integration of social, economic and environmental factors in the planning, implementation and evaluation of decisions to ensure that development serves present and future generations.
- 3.1.5 It is also stipulated on section 2(4)(a)(ii) of the NEMA that Sustainable development requires that pollution and degradation of the environment are avoided, or, where they cannot be altogether avoided, are minimised and remedied and it is the responsibility of the holder of the right to ensure the minimisation or remediation of environmental degradation and pollution at the mining area.
- 3.1.6 Section 2(4)(a)(viii) of the NEMA stipulates that negative impacts on the environment and on people's environmental rights be anticipated and prevented, and where they cannot be altogether prevented, are minimised and remedied. It is therefore the responsibility of the right holder to ensure that the environmental liability currently on site is remedied to ensure that the environmental right of people is not compromised or negatively impacted.
- 3.1.7 Environmental right of the people is contained in section 24 of the Constitution of the Republic of South Africa which states that everyone has the right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that -prevent



pollution and ecological degradation; promote conservation; and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development. Everyone including the holder of the right has a responsibility of upholding the environmental right as contained in the constitution.

- 3.1.8 The conditions which the holder or applicant seek to remove are important for the attainment of sustainable development and for the protection of environmental right enshrined in the constitution of the Republic of South Africa.
- 3.1.9 Furthermore section 2(4)(p) of the NEMA states that *"The costs of remedying pollution, environmental degradation and consequent adverse health effects and of preventing, controlling or minimising further pollution, environmental damage or adverse health effects must be paid for by those responsible for harming the environment"*. This support the DMRE position that the pit must be backfilled using the materials which were removed from the pit during mining activities, and this is the responsibility of the mining right holder.
- 3.1.10 The environment is held in public trust for the people, the beneficial use of environmental resources must serve the public interest and the environment must be protected as the people's common heritage. The DMRE as the state Department responsible with mineral resources in the country has an obligation to ensure that the environment is protected from adverse environmental impacts for the benefit of present and future generations.
- 3.1.11 The holder of the mining right proposes to leave a pit as is and construct a 2m high waste rock barrier at the top of remaining ramps, erecting a security fence 10m outside the zone of regulation, construct storm water trench and an enviroberm in balanced cut and fill operation around the open pit, outside the security fence. The DMRE acknowledged these interventions, but the long-term management of the infrastructures is of concern. The mining right has lapsed, and the mining right holder will apply for a closure certificate in terms of section 43 of the Mineral and Petroleum Resources Development Act (herein referred to as the MPRDA). Should the company be issued with a closure certificate and vacate the site, no one will be responsible with the continuous management/maintenance of the infrastructure in place. The infrastructure in place will also be vandalised and this will be a safety concerns to the surrounding communities.
- 3.1.12 The infrastructures and programmes the holder propose for scenario 1 and 2 requires continuous management, monitoring and maintenance even after issuing of the closure certificate in terms of the MPRDA. The holder of the right will leave the area after closure certificate is issued and the infrastructure in place will be vandalised. The state will incur unnecessary liability in ensuring the safety of surrounding communities and the attainment of environmental right as enshrined in section 24 of the constitution of the Republic of South Africa.



3.1.13 The Principal Inspector of mines was consulted for comments and did not support the removal of condition (d), (f) and (g) from the 2010 conditions of approval because of the hazard the pit will pose if backfilling is not done. The comments from MHS were considered during decision making process hence the mine environmental management section is not in support of the amendment the applicant or holder seek.

3.1.14 The conditions which the holder or applicant seek to remove are important for the attainment of sustainable development and for the protection of environmental right enshrined in the constitution of the Republic of South Africa.

3.1.15 The holder of the right or applicant is approved to use the materials removed from the pit during mining activities for backfilling purpose hence the disadvantages outlined on table 7-3 of the report for scenario 3 are unsubstantiated because they conflict with the conditions of approval and the NEMA provisions.

3.1.16 The materials (removed from the pit) currently in place at the mining area are enough for the successful rehabilitation of the pit to comply with the 2010 conditions of approval.

DEPARTMENT OF MINERAL RESOURCES  
MINE ENVIRONMENTAL MANAGEMENT  
PRIVATE BAG X33 WELKOM 9459  
TEL: 057 391 1300  
**23 APR 2025**  
ENVIRONMENTAL AUTHORIZATION REFUSAL  
NEMA (1998 OF 1998) AS AMENDED  
REGIONAL MANAGER: FREE STATE REGION

3.2 The Department of Mineral Resources and Energy (herein referred to as the DMRE) based on the above reasons is of the opinion that the removal of the three conditions stipulated above as proposed by the holder or applicant will not be consistent with the provision of the National Environmental Management Act, (Act 107 of 1998) as amended, which is the principal legislation relating to environmental management in the Republic of South Africa.

3.3 De Beers Consolidated Mines (Pty) Ltd preference for the pit lake establishment option is solely based on economic reasons and did not take much consideration on the environmental, health and safety implications and it is generally a standard practice for all diamond mining to be backfilled in the Republic.

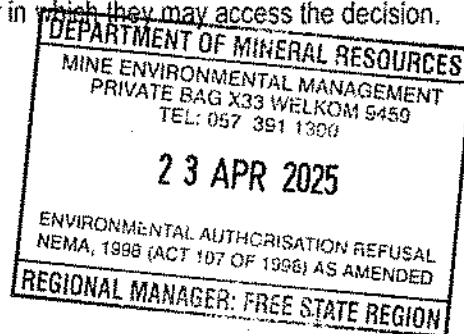
3.4 The Department of Mineral Resources and Energy still maintain that the pit must be backfilled to avoid the health and safety risks that the pit can pose to peoples and animals.

## ANNEXURE 2

### GENERAL CONDITIONS OF THE AMENDED ENVIRONMENTAL AUTHORISATION

#### 2 NOTICE OF REFUSAL OF AMENDED ENVIRONMENTAL AUTHORISATION

- 2.1 The holder of EA must in writing, within 14 (fourteen) calendar days from the date of this decision and in accordance with EIA Regulation 4(2) do the following:
- 2.2 Notify all registered I&APs of –
- 2.2.1 The outcome of the application.
  - 2.2.2 The date of the decision.
  - 2.2.3 The date of issue of the decision.
  - 2.2.4 The reasons for the decision as included in Annexure 1 and Departmental Standard Conditions in Annexure 2.
- 2.3 Draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations.
- 2.4 Draw the attention of all registered I&APs to the manner in which they may access the decision.
- 2.5 Copy the Department in the above notification.
- 2.6 Provide the registered I&APs with:
- 2.6.1 Name of the holder (entity) of this EA
  - 2.6.2 Name of the responsible person for this EA
  - 2.6.3 Postal address of the holder.
  - 2.6.4 Telephonic and fax details of the holder.
  - 2.6.5 E-mail address of the holder if any.



#### 2 RECOMMENDATIONS.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this EA, and compliance with the EMP/closure plan, the competent authority is satisfied that the proposed activity/ies will not conflict with the general objectives of Integrated Environmental Management stipulated in Chapter 5 of NEMA, and that any potentially detrimental environmental impacts resulting from the activity/ies can be mitigated to acceptable levels. The authorisation is accordingly granted.

Your interest in the future of our environment is appreciated.

Kind Regards,

R. NKAMBULE

CHIEF DIRECTOR: MINERAL REGULATION  
CENTRAL REGIONS AND ADMINISTRATION

DATE 23/4/2025