



## environmental affairs

Department:  
Environmental Affairs  
REPUBLIC OF SOUTH AFRICA

### APPEAL QUESTIONNAIRE

An electronic copy of this questionnaire may be obtained from:

Mr Z Hassam at telephone: 012 399 9356 or e-mail:

[AppealsDirectorate@environment.gov.za](mailto:AppealsDirectorate@environment.gov.za)

Once completed, this document must be forwarded to:

E-mail: [AppealsDirectorate@environment.gov.za](mailto:AppealsDirectorate@environment.gov.za)

Physical Address: Department of Forestry, Fisheries and the Environment, 473 Steve Biko Road, Environment House, Arcadia, Pretoria, 0002

**Appellant's contact information:**

**Name:** De Beers Consolidated Mines Proprietary Limited (duly represented by Webber Wentzel)

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**Project information:**

**Project name:** Amendment of the 2010 approved Environmental Management Programme read with the conditions of approval for the removal of backfilling conditions in relation to diamond mining activities at the Voorspoed Mine

**Authorisation register number as on environmental authorisation:** DMRE reference number: (FS)30/5/1/2/3/2/1(12) EM

**Authorisation date as on environmental authorisation:** Refusal decision issued on 23 April 2025 and received on 29 April 2025

**IMPORTANT! Please note:**

- *The decision of the department is reflected in the letter of authorisation or rejection. The conditions of approval are contained in the environmental authorisation document, attached to the authorisation letter.*
- *The appeal must be accompanied by all relevant supporting documents or copies of these that are certified as true by a commissioner of oaths.*
- *The grounds of your appeal and the facts upon which they rest must be set out. You should formulate your objections or concerns as averments and not as questions about the project. Please therefore refrain from material or remarks that do not contribute to the merits of your appeal.*
- *To assist in this regard, the following questions are listed as a guideline only – more space may be used if necessary:*

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1. Are you lodging this appeal as an individual or on behalf of a community/organisation?

Individual	<del>Community/ organisation</del>
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If on behalf of a community or organisation, please provide proof of mandate to do so.

*Webber Wentzel has been instructed by De Beers Consolidated Mines Proprietary Limited ("**DBCM**") to lodge this appeal on their behalf. A copy of the letter authorising Webber Wentzel to submit this appeal is attached hereto as Annexure "**AQ1**".*

2. Is your appeal based on factors associated with the process that was followed by the applicant in obtaining authorisation?

Yes	<input checked="" type="checkbox"/> No
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Please provide reasons:

*Please refer to the attached appeal response report ("**ARR**") which sets out DBCM's grounds of appeal. Defined terms herein bear the meaning ascribed to the in the ARR.*

3. Is your appeal based on factors associated with environmental impacts not taken into account by the department in refusing or authorising the application?

<input checked="" type="checkbox"/> Yes	No
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Please provide reasons:

*Please refer to the attached ARR which sets out DBCM's grounds of appeal. Among others, it is submitted by DBCM that:*

- the Refusal Decision is not rationally connected to the information before and considered by the decision-maker. In particular, the Refusal Decision failed to consider and/or give proper weight to the findings and recommendations made in the FAAR and the specialist studies attached thereto, as well as the additional information which the decision-maker expressly requested for purposes of rendering a decision;*
- the decision-maker failed to comply with his peremptory duties in terms of section 240 of NEMA, which sets out the criteria to be considered by competent authorities when considering an application brought in terms of the EIA Regulations. In particular, the Chief Director failed to apply the principles set out in section 2 of NEMA, including the principle of sustainable development, which requires the consideration of all relevant factors; the principle that environmental management requires the selection of the best practicable environmental option; and the principle that*

*the social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered and decisions must be appropriate in light of such assessment. In refusing the EMPr Amendment Application, the decision-maker also failed to give effect to the objects of the Mineral and Petroleum Resources Development Act 28 of 2002, which include the objective of promoting economic growth and mineral resource development in the Republic;*

- the Refusal Decision failed to take relevant considerations into account. In particular, the decision-maker failed to consider South African and international best practice in regard to environmentally sustainable closure options for diamond mines;*
- the Refusal Decision is based on an incorrect application of the legislation relating to the closure of mining operations; and*
- the reasons for refusal referred to in the RoD are not rationally connected to the information which was before the decision-maker in making the Refusal Decision and are unlawful and/or unreasonable in that they are not substantiated by any objective or correct technical or legal reasoning.*

4. Would you agree to the activity proceeding if your concerns can be addressed by rectifying the process or mitigating or eliminating the impacts of the activity?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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Please provide reasons:

*Please refer to the attached ARR which sets out DBCM's grounds of appeal. The findings of all specialist studies and assessment reports found that the development of a pit lake is preferable over the backfilling of the pit. The decision-maker selected a pit closure option that is not only not supported, but is comprehensively dismissed by credible experts as being inappropriate in the documentation that was before him at the time of making his decision.*

5. Are you fundamentally opposed to any development activity on the site?

Yes	<input checked="" type="checkbox"/> No
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Please provide reasons:

*Please refer to the attached ARR which sets out DBCM's grounds of appeal.*

6. Do you have an objection in principle against the development?

Yes	<input checked="" type="checkbox"/> No
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Please provide reasons:

*Please refer to the attached ARR which sets out DBCM's grounds of appeal.*

7. Does your appeal contain any new information that was not submitted to the environmental consultant or department prior to the department's consideration of the application?

Yes	<input checked="" type="checkbox"/> No
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If the answer above is yes, please explain why it should be considered by the Minister and why it was not made available to the environmental consultant or department during the application process.

*Please refer to the attached ARR which sets out DBCM's grounds of appeal. DBCM has included additional information and resources which evidence emerging international and South African best practice relating to mine closure, in terms of which pit lakes have been increasingly identified as viable and sustainable mine closure alternatives, including in the diamond mining industry.*

*DBCM further notes that the RoD in respect of the Refusal Decision does contain information which was not submitted to DBCM or its environmental assessment practitioner, namely, comments received from both the Department of Water and Sanitation and the Principal Inspector of Mines in respect of the EMPr Amendment Application. Despite numerous requests, these regulator comments were not furnished with the RoD, despite being listed in the RoD as information considered by the decision-maker in taking the Refusal Decision, which DBCM submits is contrary to the principles of administrative justice. The appeal administrator is accordingly hereby notified of these gaps in information and is requested by DBCM to direct the decision-maker to furnish it with the necessary information to enable a proper determination of this appeal by the appeal authority.*

**8. DECLARATION:**

I declare that the contents of this submission are to the best of my knowledge the truth and I regard this declaration as binding on my conscience.

A handwritten signature in black ink, appearing to read "P. Rapsor", with a horizontal line underneath it.

**APPELLANT**

**DATE: 20 MAY 2025**

**De Beers Consolidated Mines Proprietary Limited**

36 Stockdale Street

Kimberley

Northern Cape

8301

**Attention: Luntu Sebatane**

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Your reference	Our reference	Date
Voorspoed EMPr Amendment Application (FS) 30/5/1/2/3/2/1(12) EM	G Rapson / P Novotny / C Hoon 3053333.02	19 May 2025

Dear Luntu

**APPEAL IN RESPECT OF THE DECISION OF THE CHIEF DIRECTOR: MINERAL REGULATION OF THE DEPARTMENT OF MINERAL AND PETROLEUM RESOURCES TO REFUSE DE BEERS CONSOLIDATED MINES PROPRIETARY LIMITED'S APPLICATION FOR THE AMENDMENT OF THE ENVIRONMENTAL MANAGEMENT PROGRAMME IN RESPECT OF THE VOORSPOED DIAMOND MINE**

Thank you for your instruction to lodge an appeal to the Minister of Forestry, Fisheries and the Environment ("**Minister**") – in accordance with section 43(1A) of the National Environmental Management Act, 1998, as amended and the National Appeal Regulations, 2025 ("**Appeal Regulations**") – against the decision of the Chief Director: Mineral Regulation of the Department of Mineral Resources and Energy ("**DMR**") to refuse De Beers Consolidated Mines Proprietary Limited's ("**DBCM**") application in terms of regulation 31 of the Environmental Impact Assessment Regulations, 2014 for the amendment of the approved 2010 Environmental Management Programme ("**EMPr**") in respect of DBCM's Voorspoed Diamond Mine to remove the backfilling conditions stipulated in the EMPr ("**Refusal Decision**"). The Refusal Decision was taken on 23 April 2025 and DBCM was notified of the Refusal Decision via email from the DMRE, dated 29 April 2025.

**Scope of Work**

The instruction will cover the following scope of work:

1. completing the prescribed appeal documentation, for submission to the Minister on behalf of DBCM;
2. drafting the appeal submissions in support of the appeal to be submitted to the Minister on behalf of DBCM;

Letter To De Beers C(22653280.1)

**Senior Partner:** G Driver **Managing Partner:** S Patel **Partners:** BW Abraham RB Africa C Alexander AK Allie NG Alp TB Ball DC Bayman AP Blair K Blom N Blom AJR Booyens AR Bowley M Bux V Campos RI Carrim T Cassim SJ Chong ME Claassens KL Collier KM Colman KE Coster K Couzyn DB Cron PA Crosland R Cruywagen JH Davies KM Davis PM Daya HM de Villiers ST Dias L de Bruyn A de Meyer PU Dela M Denenga C Dennehy DW de Villiers BEC Dickinson DA Dingley E Durman W Drue GP Duncan CP du Toit TC Dye SK Edmundson LF Egypt KH Eiser JC Els S Farrren K Fazel G Fitzmaurice JB Forman L França M Garden MM Gibson H Goolam C Gopal CI Gouws PD Grealy L Green JM Harvey JS Henning KR Hillis CM Holfeld PM Holloway SJ Hutton KT Inglis ME Jarvis JC Jones CM Jonker S Jooste LA Kahn L Kamukwamba M Kennedy A Keyser GR Kgaile MT Kgoadi A Khumalo KE Kilner MD Kota JC Kraamwinkel AC Kruger S Kruger J Lamb LC Lambrechts LM Lamola B Lötter E Louw CF Mackenzie M Mahlangu V Mannar CCT Marupen-Shkaidy G Masina T Masingi N Mbere MC McIntosh SJ McKenzie CS Meyer A Mhlongo AJ Mills D Milo M Mkhabela DR Mogapi P Mohanlal L Moolman LE Mostert VM Movshovich M Mpungose A Muir C Murphy D Naidoo P Naidoo DC Nchabeleng DP Ndiweni ST Ngcamu LM Nkanza C Nöthling PD Novotny M Nxumalo AN Nyatumba MB Nzimande A October L Odendaal N Paige AS Parry GR Penfold SE Phajane MN Phala M Philippides BA Phillips MA Phillips CH Pienaar MP Pool DJ Rafferty D Ramjettan GI Rapson K Rew G Richards-Smith SA Ritchie J Roberts BJ Rule S Rule G Sader H Samsodien DA Serumula KE Shepherd ZK Sibeko N Singh N Singh-Nogueira CF Sieberhagen P Singh S Sithole J Smit C Smith P Soni MP Spalding MW Straeuli LJ Swaine Z Swanepoel WV Tembedza A Thakor T Theessen TK Thekiso C Theodosiou T Theunissen R Tihavani G Truter PZ Vanda SE van der Meulen JP van der Poel MS van der Walt CS Vanmali N van Vuuren JE Veeran HM Venter B Versfeld MG Versfeld TA Versfeld C Vertue T Viljoen DM Visagie EME Warmington J Watson M Wessels AWR Westwood RH Wilson JS Whitehead KD Wolmarans

3. lodging / submitting the appeal to the Minister, with copies to the prescribed persons identified in the Appeal Regulations, on behalf of DBCM; and
4. doing all such things and signing all such documents as are necessary to give effect to the scope of work set out above and performing all actions required thereunder (including supplementing the appeal, replying to any responses to the appeal and taking any further legal action as may be required).

In order to prepare this appeal submission, we will require certain factual and technical information from you, which we will discuss with you when necessary.

### **Our Team**

I will be responsible for the day-to-day conduct of the matter. Please feel free to contact me at any time about any aspect or concerns relating to the matter should the need arise.

### **General**

If you have any queries regarding the above generally, please call me. Should you accept this engagement, please confirm your acceptance by signing below.

Yours sincerely



### **WEBBER WENTZEL**

Garyn Rapson

Partner

Direct tel: +27 11 530 5892

Email: garyn.rapson@webberwentzel.com

Agreed and accepted for and on behalf of **De Beers Consolidated Mines Proprietary Limited**

By: Burger Greeff      Gabriella Simone van Heerden

Name: Burger Greeff and Gabriella Simone van Heerden

Title: Director and Nominee of the Corporate Secretaries

Date: 20 May 2025