



# mineral resources

Department:  
Mineral Resources  
**REPUBLIC OF SOUTH AFRICA**

Private Bag X 09, Roggebaai, 8012, Tel: 021 427 1000, Fax: 021 427 1046  
Atterbury House, 09 Riebeeck Street, Cape Town, 8001

## INTEGRATED ENVIRONMENTAL AUTHORISATION

<b>Authorisation Ref Number:</b>	WC30/5/1/2/3/2/1 (162 and 163) EM
<b>Last amended:</b>	First issue
<b>Applicant</b>	Mineral Sands Resources (Pty) Ltd
<b>Location of activities</b>	Remaining Extent the Farm Geelwal Karoo 262 and 10 Beaches adjacent to the remaining Extent of the Farm Klipvley Karoo 153, Portion 4, 5 and 6 of the Farm Klipvley Karoo 153, Farm Perseel Weskus 191, 192, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206 And Portion 3 of the Farm Graauwduinen 152 within West Coast District Municipality.

## DECISION

### ACRONYMS

<b>DEPARTMENT:</b>	Department of Mineral Resources
<b>IEA:</b>	Integrated Environmental Authorisation
<b>EIA:</b>	Environmental Impact Assessment
<b>EIA REGULATIONS:</b>	EIA Regulations, 2014 as amended
<b>SR:</b>	Scoping Report
<b>I&amp;AP:</b>	Interested and Affected Parties
<b>MPRDA:</b>	Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002), as amended
<b>NEMA:</b>	National Environmental Management Act, 1998 (Act 107 of 1998), as amended
<b>NEMWA:</b>	National Environmental Management: Waste Act, 2008 (Act 59 of 2008), as amended

The Department is not satisfied with the manner in which environmental impact assessment was conducted and the level of compliance with the National Environmental Management Act, 1998 (Act 107 of 1998), as amended and the 2014 EIA Regulations as amended. Details regarding the basis on which the Department reached this refusal decision are set out in Annexure 1 and 2 of this IEA.

### ACTIVITY APPLIED FOR

By virtue of the powers conferred on it by NEMA and NEMWA, the Department hereby refuses to grant an IEA lodged by **Mineral Sands Resources (Pty) Ltd** with the following contact details –

Mineral Sands Resources (Pty) Ltd  
P.O Box 139  
Lutzville  
8165

**Attention** : S. Mkhize.  
**Tell** : 087 150 4010  
**Fax** : 021 525 1902  
**Email** : sibonelo@mineralcommodities.com

to undertake the following activities listed in terms of section 19 of the NEMWA and 2014 EIA Regulations as amended.

#### NEMA LISTED ACTIVITIES APPLIED FOR:

Listed Activities	Activity and/or project description
<p><b>Activity 9 of Government notice No. R 983 as amended by GN 327 of April 2017</b>  The development of infrastructure exceeding 1 000 metres in length for the bulk transportation of water or storm water—</p> <p>(i) with an internal diameter of 0,36 metres or more; or  (ii) with a peak throughput of 120 litres per second or more;</p> <p>excluding where—</p> <p>(a) such infrastructure is for bulk transportation of water or storm water or storm water drainage inside a road reserve or railway line reserve; or  (b) where such development will occur within an urban area.</p>	<p>The proposed development will involve the development of infrastructure for water transportation from the dams to the processing plants and from the sea to the desalination plant.</p>
<p><b>Activity 10 of Government notice No. R 983 as amended by GN 327 of April 2017</b>  The development and related operation of infrastructure exceeding 1 000 metres in length for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes –</p> <p>(i) with an internal diameter of 0,36 metres or more; or  (ii) with a peak throughput of 120 litres per second or more;</p> <p>excluding where—</p> <p>(a) such infrastructure is for the bulk transportation of sewage, effluent, process water, waste water,</p>	<p>The proposed development will involve the development of infrastructure for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes between the processing plant, slime water dam and process water dams.</p>

<p>return water, industrial discharge or slimes inside a road reserve or railway line reserve; or</p> <p>(b) where such development will occur within an urban area.</p>	
<p><b>Activity 16 of Government notice No. R 983 as amended by GN 327 of April 2017</b></p> <p>The development and related operation of facilities for the desalination of water with a design capacity to produce more than 100 cubic metres of treated water per day.</p>	<p>The proposed development will involve the development of reverse osmosis plant within the proposed infrastructure expansion area for the desalination of sea water.</p>
<p><b>Activity 19 of Government notice No. R 983 as amended by GN 327 of April 2017</b></p> <p>The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <p>(a) will occur behind a development setback;</p> <p>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p>(e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</p>	<p>The proposed development will involve the upgrading of existing access road to access the proposed beach mining area.</p>
<p><b>Activity 19A of Government notice No. R 983 as amended by GN 327 of April 2017</b></p> <p>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from—</p> <p>(i) the seashore;</p> <p>(ii) the littoral active zone, an estuary or a distance of 100 metres inland of the highwater mark of the sea or an estuary, whichever distance is the greater; or</p> <p>(iii) the sea; —</p> <p>but excluding where such infilling, depositing , dredging, excavation, removal or moving—</p> <p>(f) will occur behind a development setback;</p> <p>(g) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p>	<p>The proposed development will involve the excavation and removal of beach sand from the ten beaches.</p>

<p>(h) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(i) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p>where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</p>	
<p><b>Activity 24 of Government notice No. R 983 as amended by GN 327 of April 2017</b> The development of a road—</p> <p>(i) for which an environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 in Government Notice 545 of 2010; or</p> <p>(ii) with a reserve wider than 13,5 meters, or where no reserve exists where the road is wider than 8 metres;</p> <p>but excluding a road—</p> <p>(a) which is identified and included in activity 27 in Listing Notice 2 of 2014;</p> <p>(b) where the entire road falls within an urban area; or</p> <p>(c) which is 1 kilometre or shorter.</p>	<p>The proposed development will involve the construction of access roads to access the beach mining area.</p>
<p><b>Activity 6 of Government notice No. R 984 as amended by GN 325 of April 2017</b> The development of facilities or infrastructure for any process or activity which requires a permit or licence or an amended permit or licence in terms of national or provincial legislation governing the generation or release of emissions, pollution or effluent, excluding—</p> <p>i) activities which are identified and included in Listing Notice 1 of 2014;</p> <p>ii) activities which are included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies;</p> <p>iii) the development of facilities or infrastructure for the treatment of effluent, polluted water, wastewater or sewage where such facilities have a daily throughput capacity of 2 000 cubic metres or less; or</p> <p>iv) where the development is directly related to aquaculture facilities or infrastructure where the wastewater discharge capacity will not exceed 50 cubic metres per day.</p>	<p>The proposed development will involve the installation of a dryer in the Mineral Separation Plant.</p>
<p><b>Activity 14 of Government notice No. R 984 as amended by GN 325 of April 2017</b> The development and related operation of—</p>	<p>The proposed development will involve the installation of anchored platform on the seabed.</p>

<ul style="list-style-type: none"> <li>(i) ...</li> <li>(ii) an anchored platform; or</li> <li>(iii) any other structure or infrastructure — on, below or along the sea bed; excluding — <ul style="list-style-type: none"> <li>(a) development of facilities, infrastructure or structures for aquaculture purposes; or</li> <li>(b) the development of temporary structures or infrastructure where such structures will be removed within 6 weeks of the commencement of development and where coral or indigenous vegetation will not be cleared.</li> </ul> </li> </ul>	
<p><b>Activity 15 of Government notice No. R 984 as amended by GN 325 of April 2017</b>  The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for—</p> <ul style="list-style-type: none"> <li>(i) the undertaking of a linear activity; or</li> <li>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</li> </ul>	<p>The proposed development will involve the clearance of vegetation in an area of 75 hectares.</p>
<p><b>Activity 16 of Government notice No. R 984 as amended by GN 325 of April 2017</b>  The development of a dam where the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, is 5 metres or higher or where the highwater mark of the dam covers an area of 10 hectares or more.</p>	<p>The proposed development will entail the development of two process water dam.</p>
<p><b>Activity 4 Government notice No R 985 as amended by GN 324 of April 2017</b>  The development of a road wider than 4 metres with a reserve less than 13,5 metres.</p> <p><b>i. Western Cape</b></p> <ul style="list-style-type: none"> <li>i. Areas zoned for use as public open space or equivalent zoning;</li> <li>ii. Areas outside urban areas; <ul style="list-style-type: none"> <li>(aa) Areas containing indigenous vegetation;</li> <li>(bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or</li> </ul> </li> <li>iii. Inside urban areas: <ul style="list-style-type: none"> <li>(aa) Areas zoned for conservation use; or</li> <li>(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</li> </ul> </li> </ul>	<p>The proposed development will entail widening of existing access roads to access the mining area.</p>
<p><b>Activity 12 Government notice No R 985 as amended by GN 324 of April 2017</b>  <i>The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</i></p>	<p>The proposed development will involve the clearance of vegetation in an area of 75 hectares.</p>

<p><b>i. Western Cape</b></p> <p>i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;</p> <p>ii. Within critical biodiversity areas identified in bioregional plans;</p> <p>iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on even in urban areas;</p> <p>iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or</p> <p>On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.</p>	
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**NEMWA SPECIFIED ACTIVITIES APPLIED FOR:**

<b>Listed activities</b>	<b>Activity and/or project description</b>
<p><b>Category B(7)</b> The disposal of any quantity of hazardous waste on land.</p>	<p>The development will involve the disposal of slimes, effluent, waste water from processing plant to the processing dam.</p>
<p><b>Category B(10)</b> The construction of a facility for a waste management activities listed in category B of this schedule (not in isolation to associated waste management activities).</p>	<p>The development will involve the construction of waste management facilities.</p>
<p><b>Category B(11)</b> The establishment or reclamation of a residue stockpile or residue deposit resulting from activities which require a mining right, exploration right or production right in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).</p>	<p>Residue deposit will be deposited onto the mined beach for rehabilitation purpose.</p>

## ANNEXURE 1: REASONS FOR THE DECISION

### 1. Background

The applicant, **Mineral Sands Resources (Pty) Ltd**, represented by Mr. S Mkhize, applied for integrated environmental authorisation in terms of NEMA and NEMWA, namely

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<p><b>Activity 10 of Government notice No. R 983 as amended by GN 327 of April 2017</b>                      The development and related operation of infrastructure exceeding 1 000 metres in length for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes –</p> <ul style="list-style-type: none"> <li>(i) with an internal diameter of 0,36 metres or more; or</li> <li>(ii) with a peak throughput of 120 litres per second or more;</li> </ul> <p>excluding where—</p> <ul style="list-style-type: none"> <li>(a) such infrastructure is for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes inside a road reserve or railway line reserve; or</li> <li>(b) where such development will occur within an urban area.</li> </ul>	<p>The proposed development will involve the development of infrastructure for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes between the processing plant, slime water dam and process water dams.</p>
<p><b>Activity 16 of Government notice No. R 983 as amended by GN 327 of April 2017</b>                      The development and related operation of facilities for the desalination of water with a design capacity to produce more than 100 cubic metres of treated water per day.</p>	<p>The proposed development will involve the development of reverse osmosis plant within the proposed infrastructure expansion area for the desalination of sea water.</p>
<p><b>Activity 19 of Government notice No. R 983 as amended by GN 327 of April 2017</b></p>	<p>The proposed development will involve the upgrading of existing</p>

<p>The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <ul style="list-style-type: none"> <li>(a) will occur behind a development setback;</li> <li>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</li> <li>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</li> <li>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</li> <li>(e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</li> </ul>	<p>access road to access the proposed beach mining area.</p>
<p><b>Activity 19A of Government notice No. R 983 as amended by GN 327 of April 2017</b></p> <p>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from—</p> <ul style="list-style-type: none"> <li>(i) the seashore;</li> <li>(ii) the littoral active zone, an estuary or a distance of 100 metres inland of the highwater mark of the sea or an estuary, whichever distance is the greater; or</li> <li>(iii) the sea; —</li> </ul> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <ul style="list-style-type: none"> <li>(f) will occur behind a development setback;</li> <li>(g) is for maintenance purposes undertaken in accordance with a maintenance management plan;</li> <li>(h) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</li> <li>(i) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</li> </ul> <p>where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</p>	<p>The proposed development will involve the excavation and removal of beach sand from the ten beaches.</p>
<p><b>Activity 24 of Government notice No. R 983 as amended by GN 327 of April 2017</b></p> <p>The development of a road—</p> <ul style="list-style-type: none"> <li>i) for which an environmental authorisation was obtained for the route determination in terms of</li> </ul>	<p>The proposed development will involve the construction of access roads to access the beach mining area.</p>



<p>activity 5 in Government Notice 387 of 2006 or activity 18 in Government Notice 545 of 2010; or</p> <p>ii) with a reserve wider than 13,5 meters, or where no reserve exists where the road is wider than 8 metres;</p> <p>but excluding a road—</p> <p>(a) which is identified and included in activity 27 in Listing Notice 2 of 2014;</p> <p>(b) where the entire road falls within an urban area; or</p> <p>(c) which is 1 kilometre or shorter.</p>	
<p><b>Activity 6 of Government notice No. R 984 as amended by GN 325 of April 2017</b></p> <p>The development of facilities or infrastructure for any process or activity which requires a permit or licence or an amended permit or licence in terms of national or provincial legislation governing the generation or release of emissions, pollution or effluent, excluding—</p> <p>(i) activities which are identified and included in Listing Notice 1 of 2014;</p> <p>(ii) activities which are included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies;</p> <p>(iii) the development of facilities or infrastructure for the treatment of effluent, polluted water, wastewater or sewage where such facilities have a daily throughput capacity of 2 000 cubic metres or less; or</p> <p>(iv) where the development is directly related to aquaculture facilities or infrastructure where the wastewater discharge capacity will not exceed 50 cubic metres per day.</p>	<p>The proposed development will involve the installation of a dryer in the Mineral Separation Plant.</p>
<p><b>Activity 14 of Government notice No. R 984 as amended by GN 325 of April 2017</b></p> <p>The development and related operation of—</p> <p>(i) ...</p> <p>(ii) an anchored platform; or</p> <p>(iii) any other structure or infrastructure — on, below or along the sea bed; excluding —</p> <p>(a) development of facilities, infrastructure or structures for aquaculture purposes; or</p> <p>(b) the development of temporary structures or infrastructure where such structures will be removed within 6 weeks of the commencement of development and where coral or indigenous vegetation will not be cleared.</p>	<p>The proposed development will involve the installation of anchored platform on the seabed.</p>
<p><b>Activity 15 of Government notice No. R 984 as amended by GN 325 of April 2017</b></p>	<p>The proposed development will involve the clearance of</p>

<p>The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for—</p> <ul style="list-style-type: none"> <li>(i) the undertaking of a linear activity; or</li> <li>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</li> </ul>	<p>vegetation in an area of 75 hectares.</p>
<p><b>Activity 16 of Government notice No. R 984 as amended by GN 325 of April 2017</b></p> <p>The development of a dam where the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, is 5 metres or higher or where the highwater mark of the dam covers an area of 10 hectares or more.</p>	<p>The proposed development will entail the development of two process water dam.</p>
<p><b>Activity 4 Government notice No R 985 as amended by GN 324 of April 2017</b></p> <p>The development of a road wider than 4 metres with a reserve less than 13,5 metres.</p> <p><b>i. Western Cape</b></p> <ul style="list-style-type: none"> <li>i. Areas zoned for use as public open space or equivalent zoning;</li> <li>ii. Areas outside urban areas; <ul style="list-style-type: none"> <li>(aa) Areas containing indigenous vegetation;</li> <li>(bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or</li> </ul> </li> <li>iii. Inside urban areas: <ul style="list-style-type: none"> <li>(aa) Areas zoned for conservation use; or</li> <li>(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</li> </ul> </li> </ul>	<p>The proposed development will entail widening of existing access roads to access the mining area.</p>
<p><b>Activity 12 Government notice No R 985 as amended by GN 324 of April 2017</b></p> <p>The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</p> <p><b>i. Western Cape</b></p> <ul style="list-style-type: none"> <li>i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;</li> <li>ii. Within critical biodiversity areas identified in bioregional plans;</li> <li>iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind</li> </ul>	<p>The proposed development will involve the clearance of vegetation in an area of 75 hectares.</p>

<p>the development setback line on erven in urban areas;</p> <p>iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or</p> <p>On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.</p>	
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#### NEMWA SPECIFIED ACTIVITIES APPLIED FOR:

Listed activities	Activity and/or project description
<p><b>Category B(7)</b> The disposal of any quantity of hazardous waste on land.</p>	<p>The development will involve the disposal of slimes, effluent, waste water from processing plant to the processing dam.</p>
<p><b>Category B(10)</b> The construction of a facility for a waste management activities listed in category B of this schedule (not in isolation to associated waste management activities).</p>	<p>The development will involve the construction of waste management facilities.</p>
<p><b>Category B(11)</b> The establishment or reclamation of a residue stockpile or residue deposit resulting from activities which require a mining right, exploration right or production right in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).</p>	<p>Residue deposit will be deposited onto the mined beach for rehabilitation purpose.</p>

The applicant proposed to undertake the abovementioned listed and specified activities in respect to the extension of the mining operations and the extension include the following:

- Mining of valuable heavy minerals (VHM) deposits on ten beaches covering an area of 43.7 hectares along a stretch of coastline north of the existing MSR mining right area and widening of access roads to the respective beaches;
- Mining of VHM on 75 hectares strandline in land of the existing mine and processing plant;
- Construction of Mineral Separation Plant (MSP) and Reverse Osmosis Plant to the east of the existing processing plant and associated activities; and,
- Construction and undertaking of waste management activities related to mining activities.

#### Site description and location:

The activities will be conducted on remaining extent the Farm Geelwal Karoo 262 and 10 beaches adjacent to the Remaining extent of Farm Klipvley Karoo 153, Portion 4, 5 and 6 of the Farm Klipvley Karoo 153, Farm Perseel Weskus 191, 192, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206 and Portion 3 of the Farm Graauwduinen 152 within West Coast District Municipality: Western Cape Region.

The applicant appointed **SRK Consulting** represented by Mr S. Masson and Ms S. Reuther, to undertake the Scoping and Environmental Impact Assessment as required by regulation 21 of the 2014 EIA Regulations as amended.

## **2. Information considered in making the decision**

In reaching its decision, the Department took, *inter alia*, the following into consideration -

- a) The information contained in the application form received by the Department on 21 April 2017;
- b) The information contained in the scoping report received by the Department on 12 June 2017;
- c) Findings of the site visits conducted by Mr. T.P. Monyai and Ms. V.J. Mwelase of this department in the presence of Mr. S. Mkhize, Mr. R. Walker and Mr. Z.D. Qunya on 06 November 2017;
- d) Public Participation Process (PPP) report attached as appendix 6 and 8 of the scoping report received by the department on 12 June 2017; and
- e) The objectives and requirements of the applicable and relevant legislation, policies and guidelines and the EIA Regulations of 2014 as amended;

## **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 applicant and the EAP did not comply with the National Environmental Management Act, 1998 (Act 107 of 1998) as amended provisions and the 2014 Environmental Impact Assessment Regulation as amended during environmental impact assessment process in that they failed to identify all listed activities triggered by the proposed project and that the applicant commenced with listed activities in contravention of section 24F (1) (a) of the NEMA as amended.

## **4. Findings**

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

- a) During review of the scoping report submitted to this office for review it was revealed that the applicant and the EAP omitted activity 17 on the application form and the scoping report submitted for decision making. The scoping report circulated for the 30 days commenting period did not include impacts related to activity 17 as it was omitted;
- b) The site inspection conducted on 06 November 2017 revealed that the applicant contravened the provision of Section 24F (1) (a) of NEMA, read with with 2014 EIA Regulations as amended on 07 April 2017 (hereinafter referred to as "EIA Regulations");

- c) Section 24(F) (1) (a) of NEMA state that *“notwithstanding the provisions of any other Act, no person may: commence an activity listed or specified in terms of section 24(2) (a) or (b) unless the competent authority or the Minister responsible for Mineral Resources , as the case may be, has granted an environmental authorization for the activity”*;
- d) During the inspection conducted on the above mentioned date it was found that a large portion of land in the 75 hectares mining proposed area has been cleared of vegetation by the applicant;
- e) It was also observed that a water reservoir and the pipeline taking water from the reservoir to the processing plant has been constructed onsite; and,
- f) It was found during the review of the scoping report that the Environmental Assessment practitioner and the applicant did not disclose the information at their disposal in that they failed to notify the Department, state organs and the general public of the NEMA contraventions within the application area in relation to the clearance of vegetation, construction of the reservoir and pipeline.
- g) According to Regulation 13 (1) (d) and (f) an EAP and a specialist, appointed in terms of regulation 12(1) or 12(2), must perform the work relating to the application in an objective manner, even if this results in views and findings that are not favourable to the application and disclose to the proponent or applicant, registered interested and affected parties and the competent authority all material information in the possession of the EAP and, where applicable, the specialist, that reasonably has or may have the potential of influencing–
  - (i) any decision to be taken with respect to the application by the competent authority in terms of these Regulations; or
  - (ii) the objectivity of any report, plan or document to be prepared by the EAP or specialist, in terms of these Regulations for submission to the competent authority;
 unless access to that information is protected by law, in which case it must be indicated that such protected information exists and is only provided to the competent authority.

## **ANNEXURE 2: GENERAL CONDITIONS**

### **2. NOTICE OF REFUSAL OF INTEGRATED ENVIRONMENTAL AUTHORISATION**

- 2.1 The applicant must in writing, within 14 (fourteen) calendar days from the date of this decision and in accordance with EIA Regulation 4(2) as amended 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 this decision and
  - 2.2.3 The date of issue of the decision,
- 2.3 The reasons for the decision as included in Annexure 1 and Departmental Standard Conditions in Annexure 2.
- 2.4 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,
- 2.5 Draw the attention of all registered I&APs to the manner in which they may access the decision.

- 2.6 Provide the registered I&APs with:
- 2.6.1 Name of the holder (entity) of this IEA
  - 2.6.2 Name of the responsible person for this IEA
  - 2.6.3 Postal address of the holder;
  - 2.6.4 Telephonic and fax details of the holder; and,
  - 2.6.5 E-mail address of the holder if any.

## RECOMMENDATIONS

In view of the above, the Department wishes to advise that due consideration shall at all times be given to the general objectives of integrated environmental management laid down in Chapter 5 of NEMA as well as the requirements of the EIA Regulations whenever the potential detrimental impacts to the environment are addressed. The Integrated Environmental Authorisation is accordingly **refused** as outlined on Regulation 22(b) of the 2014 EIA Regulations as amended. Alternatively, this department **advises** that Section 24G of NEMA makes provision for rectification of unlawful commencement of the listed activities, whereby a person who has committed an offence in terms of Section 49A (1) (a) of NEMA may apply to the Minister of this department for rectification subjected to the payment of an administration fine and the submission of impact assessment reports as determined by this department.

Kind Regards



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**REGIONAL MANAGER: MINERAL REGULATION**  
**WESTERN CAPE REGIONAL OFFICE**

DATE: 22/11/2017 .....