



**PRACTICE GROUP**  
townplanners

30 YEARS

Our Ref: 700/299  
PJ Dacomb

Your Ref: 15/4/1/2 (MR/PS/SN)

27 June 2018

Attention: P Thwala

Municipal Manager (Acting)  
Dr Pixley Ka Isaka Seme Local Municipality  
Private Bag X9011  
Volksrust  
2470

**YZERMYN 96 HT: PORTION 1**  
**APPLICATION TO CHANGE USE OF LAND: SPLUM BY-LAW, 2016 READ TOGETHER WITH SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013 (SPLUMA)**

We refer to your letter dated 4 June 2018, received under cover of your e-mail dated 11 June 2018 and the attachments thereto in the form of written objections and comments in support of the application, received during the notification period with regard to the aforesaid matter (which period expired on 30 May 2018).

Having regard to the provisions of Section 109 (2) of the Spatial Planning and Land Use Management By-law, 2016 (By-Law) of your Municipality, we are instructed to respond (as we hereby do) as follows:

**1. LETTER OF OBJECTION: FROM S KNÖCKLEIN (NHD TOWN AND REGIONAL PLANNING) DD 28 MAY 2018, RECEIVED BY THE MUNICIPALITY ON 4 JUNE 2018.**

- 1.1 The objection does not focus on the principle/merit of using the land for mining and related purposes. Rather, the objection appears to be aimed at a number of technical considerations based on what we consider to be an incorrect interpretation of the ruling legislation.
- 1.2 It is evident from the application documents that the subject property does not fall within the boundaries of an existing town planning or land use scheme. Hence the application in terms of the relevant provisions of SPLUMA to firstly recognize the use of the land as being agricultural (*de facto*) and thereafter to use the relevant provisions of the ruling legislation to bring about the incorporation of the property in question into the ambit of the local town planning scheme and to allocate, simultaneously, an appropriate zoning to sanction the use of the land for mining and related purposes.
- 1.3 The author of the objection evidently is not fully conversant with the aforesaid provisions of the ruling legislation and, as a result, the objection is based on a misunderstanding on his part.
- 1.4 As far as the objector's reference to the Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970) is concerned, it is equally a misunderstanding on his part with regard to the provisions thereof. Whereas the applicant has already approached the Department with regard to the aforesaid matter. Act 70 of 1970 remains parallel legislation which must be adhered to (where relevant) in addition to the provisions of SPLUMA and the local by-law. The giving of notice of the intention to extend the boundaries of an existing town planning scheme (the public participation process and what results therefrom), is not something that first requires the consent of the Minister of Agriculture as contemplated in Act 70 of

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B-BBEE LEVEL 4 CONTRIBUTOR

**Directors:**

CH Wiehahn (Pr Pln A/527/1987) (B.TRP UP)  
PJ Dacomb (Pr Pln A/521/1987) (B.TRP UP)  
L Potgieter

**Associates:**

ET Basson (Pr Pln A/1871/2014) (B.TRP UP)  
H Benadie (Pr Pln A/2062/2015) (B.TRP UP)



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1970. The objection is therefore of no relevance as the municipality is yet to decide on the matter.

- 1.5 The municipality is the decision maker of first instance and, as confirmed by the Supreme Court it, requires to consider and apply its authority with regard to the matter in question whilst having regard to other relevant legislation (to the extent necessary). It goes without saying that, where a land development applicant is obliged to comply with different sets of legislation, all such obligations remain to be fulfilled prior to bringing the matter into effect.
- 1.6 Nothing turns on this aspect and, given that the objection is not aimed at the principle of the matter (the merit of the intended change in use), it falls to be set aside by the Municipal Planning Tribunal (MPT).

## **2. OBJECTION BY WWWF SOUTH AFRICA (WORLD WIDE FUND FOR NATURE) DD 29 MAY 2018, RECEIVED BY THE MUNICIPALITY ON THE SAME DATE**

- 2.1 The objection in this regard is premised on an incorrect interpretation of the application details as, in the second unnumbered paragraph on page 2 of the letter of objection, reference is made to the intended "... change from agriculture and conservation purposes to mining and ancillary purposes as advertised...".  
*Underlining by author*
- 2.2 The application in question has no bearing on "conservation purposes" and pertains solely to procuring authorisation to use the subject property for mining and related purposes and, as a result to bring about a change in the use of the land from the *de facto* "agricultural use" to "mining and related uses". It follows that the grounds of objection put forward by WWWF South Africa are premised on an incorrect interpretation of the facts of the matter and therefore falls to be set aside by the MPT.
- 2.3 The objection also refers to certain conservation areas and priority areas allegedly determined by the South African National Biodiversity Institute (SANBI) and other institutions. Given that the land development applicant has procured authorisation in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002) (MPRDA), read with the relevant provisions of the environmental legislation and the National Water Act, 1998 (not an exhaustive list), it is evident that the aforesaid environmental factors have been considered by the appropriate authorities. The authorisations as alluded to above now require to be aligned with the decision of the municipality with regard to a change in land use.
- 2.4 It follows that the grounds of objection put forward by WWWF South Africa are similar to those previously raised with regard to the aforesaid processes and it is submitted that a repeat thereof is inappropriate and is presented to the wrong forum (the municipal MPT). The submissions made by the WWWF have little if any bearing on the intended change in use and are matters for consideration by other authorities (not the municipality). On its part the municipality is confronted with the reality that all the other relevant authorities have indeed granted authorisation in terms of such legislation to the extent required. This does not again require to be considered by the municipality for the purposes of the intended change in use.

## **3. OBJECTION BY PIKKIE UYS TRUST/EXECUTOR: ESTATE PWB UYS AND THYS UYS TRUST (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018**

- 3.1 These objectors allege to be the owners of Portion 1 of the farm Yzermyn 96 HT, the property which forms the subject of the land development application. The property was owned by the late PWB Uys, now controlled by the appointed Executor of the deceased person.

- 3.2 The objection suggests that, as the registered owner of the property in question, the aforesaid executor has not consented to the land development application. In this regard reference is made to paragraph 6 in the motivating memorandum as part of the application bundle in this matter where the circumstance relevant to the authority of the land development applicant are explained in the context of the ruling legislation. It follows that this ground of objection falls to be set aside as it is based on an incorrect interpretation of the provisions of the ruling legislation.
- 3.3 In a further paragraph the objectors allege that the aerial photograph as part of the application bundle appears to indicate that the land development application pertains not only to Portion 1 Yzermyn 96 HT but also various adjacent farms (including Kromhoek and Welgevonden). This is incorrect and attention is drawn to Map 2 (Locality) in the application bundle (an aerial view of the area surrounding the subject property). It is evident that the application site (denoted in bold black lines) only pertains to Portion 1 of the farm Yzermyn 96 HT (and no other properties are included). The ground of objection is therefore equally flawed and based on an incorrect interpretation of the facts available to the public. As a result the objection falls to be set aside by the MPT.

#### **4. LETTERS OF SUPPORT BY:**

- 4.1 E NKOSI (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018  
This letter supports the application and does not require a further response.
- 4.2 N MASANGO (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018  
This letter supports the application and does not require a further response.
- 4.3 N MADI (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018  
This letter supports the application and does not require a further response.
- 4.4 N MUYSA (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018  
This letter supports the application and does not require a further response.
- 4.5 S SIMILANI (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018  
This letter supports the application and does not require a further response.
- 4.6 L MADI (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018  
This letter supports the application and does not require a further response.
- 4.7 JN FAKUDE (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018  
This letter supports the application and does not require a further response.
- 4.8 A M NDEBELE (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018  
This letter supports the application and does not require a further response.
- 4.9 T NKOSI (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018  
This letter supports the application and does not require a further response.

- 4.10 N MASANGO (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018  
This letter supports the application and does not require a further response.
- 4.11 T NENE (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018  
This letter supports the application and does not require a further response.
- 4.12 N NKOSI (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018  
This letter supports the application and does not require a further response.
- 4.13 M ZWANE (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018  
This letter supports the application and does not require a further response.
- 4.14 S NKOSI (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018  
This letter supports the application and does not require a further response.
- 4.15 L MADI (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018  
This letter supports the application and does not require a further response.
- 4.16 L MADI FOR "THE VOICE" (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018  
This letter supports the application and does not require a further response.
- 4.17 T NENE FOR ANC (GERT SIBANDE REGION) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018  
This letter supports the application and does not require a further response.
- 4.18 M MAZIBUKO (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018  
This letter supports the application and does not require a further response.
- 4.19 UNKNOWN AUTHOR OF LETTER OF SUPPORT (CELL PHONE CONTACT 0731602823) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018  
This letter supports the application and does not require a further response.
- 4.20 UNKNOWN AUTHOR OF LETTER OF SUPPORT (CELL PHONE CONTACT 071 0087 812) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018  
This letter supports the application and does not require a further response.
- 4.21 UNKNOWN AUTHOR OF LETTER OF SUPPORT (CELL PHONE CONTACT 0739972705) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018  
This letter supports the application and does not require a further response.
- 4.22 UNKNOWN AUTHOR OF LETTER OF SUPPORT (CELL PHONE CONTACT 0785951374) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018  
This letter supports the application and does not require a further response.

4.23 AL NGEONGWANE (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018

This letter supports the application and does not require a further response.

4.24 N NXUMALO (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018

This letter supports the application and does not require a further response.

4.25 LETTER OF SUPPORT FROM AN UNIDENTIFIABLE AUTHOR (CONTACT CELL 0738072124) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018

This letter supports the application and does not require a further response.

4.26 LETTER OF SUPPORT FROM AN UNIDENTIFIABLE AUTHOR WITH NO CONTACT DETAILS (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018

This letter supports the application and does not require a further response.

4.27 BETTER LIFE FOR ALL (PRINTED ON A NEDBANK PAGE) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018

This letter supports the application and does not require a further response.

4.28 LETTER OF SUPPORT FROM AN UNIDENTIFIABLE AUTHOR (CELL NUMBER 079 590 4633) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018

This letter supports the application and does not require a further response.

4.29 AL MACU (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018

This letter supports the application and does not require a further response.

4.30 SJ MACU (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018

This letter supports the application and does not require a further response.

4.31 N NGWENYA (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018

This letter supports the application and does not require a further response.

4.32 T BANDA (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018

This letter supports the application and does not require a further response.

4.33 L KHUMALO (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018

This letter supports the application and does not require a further response.

4.34 P TSHABALALA (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018

This letter supports the application and does not require a further response.

4.35 MH XABA (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018

This letter supports the application and does not require a further response.

4.36 SP VILAKAZI (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018

This letter supports the application and does not require a further response.

4.37 TA NGWENYA (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018

This letter supports the application and does not require a further response.

4.38 AN UNIDENTIFIABLE AUTHOR WITH CELL NUMBER 07828402964 (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.39 D MNGOMEZULU (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018

This letter supports the application and does not require a further response.

4.40 AP CHERDWICK (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.41 Z NDLOVU (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.42 NP ZWANE (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.43 AN UNKNOWN AUTHOR (CELL NUMBER 071685 0201) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.44 M THABETLO (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.45 UNKNOWN AUTHOR (CONTACT REFERENCE 0735457299) V(UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.46 N NTSUNTSHA (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.47 UNKNOWN AUTHOR (CONTACT REFERENCE 0785177164) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.48 UNKNOWN AUTHOR (CONTACT REFERENCE 0788587352) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.49 UNKNOWN AUTHOR (CONTACT REFERENCE 0727799731) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.50 UNKNOWN AUTHOR (CONTACT REFERENCE 073489229) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.51 UNKNOWN AUTHOR (CONTACT REFERENCE 0712683800) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.52 UNKNOWN AUTHOR (CONTACT REFERENCE 0818591302) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.53 UNKNOWN AUTHOR (CONTACT REFERENCE 0735331724) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.54 S NKOSI (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.55 SN NGOBESE (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.56 FN NKOSI (UNDATED) RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018

This letter supports the application and does not require a further response.

4.57 N MBAHATHA DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.58 J MASONDO DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.59 T SHIBA DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.60 T MAKAMO DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.61 M MKHIZE DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.62 SM KHONGEZWAYO DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.63 SN NDLOVU DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.64 T SOBELO DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.65 P SHABALALA DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.66 S NKAMBULE DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.67 SS NYANDEN DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.68 F MABUZA DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.69 NS MAJADU DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.70 EN MNCUBE DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.71 G THABETHE DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.72 NA MBATHA DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.73 IT MANANA DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.74 G NABE DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.



4.75 N MASEKO DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.76 BY NKOSI DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.77 S SIKHANDE DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.78 SC NKOSI DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.79 S NDHLOVU DATED 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE

This letter supports the application and does not require a further response.

4.80 S JACOBS DATED (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.81 UNKNOWN AUTHOR (CELL REFERENCE 0712945661) UNDATED RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.82 V KIBLEK (CONTACT REFERENCE 0728867902) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.83 UNKNOWN AUTHOR (CONTACT REFERENCE 0795591761) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.84 UNKNOWN AUTHOR (CONTACT REFERENCE 0787315524) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.85 BT ZWANE (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.86 UNKNOWN AUTHOR (CONTACT REFERENCE 0721803788) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.87 S NGWENYA (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.88 UNKNOWN AUTHOR (CONTACT REFERENCE 0631085245) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.89 UNKNOWN AUTHOR (CONTACT REFERENCE 0723333473) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.90 UNKNOWN AUTHOR (CONTACT REFERENCE 0829101507) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.91 DG NGWENYA (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.92 L MACU (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.93 N DOKOLWANA (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.94 S DOKOLWANA (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.95 S NYEMBE (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.96 M HLATSHWAYO (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.97 N SEBILOANE (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.98 L NGWENYA (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.99 SP MACU (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.100 M MACU (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.101 N ZLOANE (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.102 DF THUSI (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.103 NJ NGUBENI (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.104 Z NDABA (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

4.105 MK MOHLALA (UNDATED) RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018

This letter supports the application and does not require a further response.

**5. LETTER OF OBJECTION FROM H MALAN ON BEHALF OF "MABOLA PROTECTED ENVIRONMENTS ASSOCIATION" DD 29 MAY 2018 RECEIVED BY THE MUNICIPALITY ON THE SAME DATE**

5.1 The objector alleges to act on behalf of the "Mabola Protected Environments Association" but does not attach any verification with regard thereto.

5.2 The objection is partly based on uncertainty with regard to "under water" of neighbouring farms which may be affected (for reasons not declared). Furthermore the objection focuses on potential water pollution. The aspects of water have been considered by the relevant Department in charge of the National Water Act, 1998. In this regard the land development applicant has procured authorisation to the extent necessary and these matters, in any event, do not fall within the ambit of the authorisation of the municipality. It follows that the ground of objection is based on an incorrect interpretation of the ruling legislation and authorisations previously procured by the land development applicant. The objection therefore falls to be set aside by the MPT.

5.3 The objection further alleges that the application process is somehow "illegal" given that the dates in the notifications which appeared in the Afrikaans and English press differ. The dates in question do not detract from the opportunity offered to interested and affected parties to respond to the application in question, given that the period permitted for responses (objections and/or representations) exceeds the stipulated requirement in the by-law. In other words, participating parties were offered a longer period within which to respond and the differing dates of expiry in the English and Afrikaans versions of the notices which appeared in the local press, in any event, fall beyond what is stipulated in the by-law. It follows that no party to the matter could have been prejudiced as a result of such stipulated dates. As a result the objection falls to be set aside.

5.4 The objection further alleges that the address of the municipality is not a "registered address". No further explanation is provided and, suffice it to confirm that prior to the publication of the notice, same was presented to the municipality for verification before the land development applicant was granted the opportunity to give notice as prescribed in the relevant By-Law. The address in question is not ambiguous and any lay reader of the notice would not have suffered prejudice with regard to any incorrect stipulations therein. As a result the objection falls to be set aside.

5.5 The objection further alleges that the "map" is incorrect and does not show the real area. As alluded to in a previous paragraph, there are various maps in the application bundle,

all of which correctly indicate the cadastral boundaries of the subject property as confirmed by the records of the Surveyor General. This ground of objection is therefore premised on an incorrect reading of the information in question and therefore falls to be set aside by the MPT.

5.6 The objection further alleges that the "advertisement" was not displayed at the municipal offices. The by-law in question provides for certain notification requirements, including the prospect of publishing a notice in the local press and for notices to be posted at the entrance to the subject property (placard notice). These matters were canvassed with the municipality prior to submission and the municipality chose not to impose any additional obligations on the land development applicant with regard to notification. It follows that the ground of objection is based on an incorrect interpretation of the provisions of the relevant by-law and falls to be set aside.

5.7 Finally, the objector alleges that she is the owner of the Remainder of the farm Yzermyn (although the author of the objection also purports to represent the Mabolo Protected Environments Association). It is not clear which entity alleges to be the owner of the Remainder of the relevant farm portion. Nevertheless, the records of the applicant indicate that all adjacent land owners (as per the records of the Registrar of Deeds and the records of the municipality) were indeed informed as stipulated in the by-law. It follows that, on its part, the land development applicant has complied with his obligation to give notice as stipulated in the relevant legislation and given the proof that has been delivered to the municipality under affidavit in the above regard, the objection falls to be set aside by the MPT.

**6. LETTER OF SUPPORT FROM UNIDENTIFIABLE WRITER (CONTACT CELL NUMBER 0838437336) (UNDATED) RECEIVED BY THE MUNICIPALITY ON 29 MAY 2018**

Given that this letter is in support of the land development application, it requires no further response.

**7. LETTER OF SP MALAN DD 29 MAY 2018 RECEIVED BY THE MUNICIPALITY ON 30 MAY 2018**

This letter of objection is similar to the one described under paragraph 5 above and the response thereto will not be repeated. However, in this letter SP Malan acts in own capacity (ostensibly as the owner of the Remainder of the farm Yzermyn) and not on behalf of the Mabola Association.

**8. LETTER OF OBJECTION FROM S THORP DD 27 MAY 2018 (BY E-MAIL) RECEIVED BY THE MUNICIPALITY ON 28 MAY 2018**

8.1 The objector's locus standi is not confirmed and alleges that the proposed use of the land for mining will harm the environment and pollute water sources. Having regard to the environmental authorisation and further authorisations in terms of the National Water Act, 1998, it is evident that the author of the objection has not studied the application bundle to familiarize herself with the aforesaid facts. Against the aforesaid proof to the contrary, the objection falls to be set aside by the MPT.

8.2 The objection also alleges that the proposed mine is situated within a "protected area". This is not correct as the property in question falls beyond the boundaries of any proclaimed protected area. Again, these facts are clear from the application bundle and it is evident that the objector did not take cognisance thereof.

8.3 The objector alleges that the mining activities proposed on the subject property will somehow "damage tourism and investment". The area concerned is largely agriculture in nature and the area immediately surrounding the subject property is not known as a

particular tourist destination. Although tourist destinations such as Wakkerstroom and other areas further afield are well known, the mine property is not situated close thereto and, as a result, the objection has no foundation and falls to be set aside by the MPT.

## **9. LETTER OF OBJECTION FROM CENTRE FOR ENVIRONMENTAL RIGHTS DD 30 MAY 2018 RECEIVED BY THE MUNICIPALITY ON 31 MAY 2018**

9.1 The Centre for Environmental Rights (CER) purports to act on behalf of various entities including:

- Mining and Environmental Justice Community Network of South Africa (MEJCON);
- GroundWork;
- Earthlife Africa Johannesburg;
- Birdlife South Africa;
- Endangered Wildlife Trust (EWT);
- Federation for a sustainable environment (FSE);
- Association for Water and Rural Development (Award); and
- Bench Marks Foundation

9.2 The letter of objection does not contain any reference to mandates to act for the aforesaid entities.

9.3 The objection alleges that the subject property is situated within a "protected area buffer zone", ostensibly adjacent to the Mabola Protected Environment associated with Wakkerstroom in Mpumalanga. The demarcated protected environment (as required in terms of the relevant legislation) excludes the subject property and it is now common knowledge that the Department of Mineral Resources has granted the mining right with regard to the subject property as contemplated in the MPRDA. It follows that the submissions made by the objector are incorrect with regard to the situational context of the subject property.

9.4 Paragraph 5 of the letter of objection acknowledges that the surface workings of the proposed mining activities will not fall within the protected area. The application for a change in land use rights pertains largely to the use of the land at surface, where the municipality holds sway with regard to its mandate in terms of, inter alia, the Spatial Planning and Land Use Management Act, 2013 (SPLUMA).

9.5 In further paragraphs of the letter of objection the objector alleges that the intended use of the subject property will have wide ranging and significant impacts on the "environmental uniqueness of the area with due regard to water". These matters were considered by the appropriate authorities on a previous occasion and it is now part of the record that all the required authorisations contemplated in, inter alia, the MPRDA, NEMA and related legislation are in place. As a result, the objection is directed to the incorrect authority and as a result falls to be set aside by the MPT.

9.6 In paragraph 7 of the letter of objection the objector alleges that, having regard to SPLUMA, the intended change in land use will affect "national interest". This appears to be contrary the decisions of the Constitutional Court with regard to the authority of the municipality (of first instance) to consider and determine matters pertaining to the use of land (the subject of the application in question). It follows that the objection is based on an incorrect interpretation of the provisions of the relevant legislation and falls to be set aside by the MPT.

9.7 Having regard to paragraph 10 of the objection, it is confirmed that the "coalition of objectors" is interested in matters pertaining to environmental and hydrological significance. Again, it is confirmed that such matters have been decided by the

appropriate authorities (including Department of Mineral Resources and the National Department of Water Affairs and Sanitation) in terms of the relevant legislation. These matters are not the province of the municipality and the objections are therefore directed at the incorrect forum. As a result they fall to be set aside by the MPT. In the same paragraph the objector alleges that the "area" has been recognized in spatial development framework and national programmes and policies as falling within a strategically important area from a conservation perspective. Whereas the spatial development frameworks and related policies indeed identify the conservation area (as demarcated and proclaimed), they do not include the subject property. It follows that the submissions made by the objector are based on incorrect information and fall to be set aside by the MPT.

- 9.8 In paragraph 14 of the letter of objection, reference is made to the Municipal Spatial Development Framework and an attempt is made to interpret the provisions of the adopted guidelines for the area concerned.
- 9.9 In the application bundle, the land development applicant dealt with this matter at length and a proper interpretation of the provisions of the Spatial Development Framework is set out therein which concludes that the adopted policy of the municipality does not in any manner militate against the intended change in use. As a result, the ground of objection presented by the objector in this regard falls to be set aside by the MPT.
- 9.10 In paragraph 15 of the letter of objection reference is made to a biodiversity sector plan for Mpumalanga dating back to 2014. The objection appears to ignore the fact that authorisations are on record from the relevant environmental authorities with regard to the intended use of the land for mining purposes. In other words the environmental impact (also with regard to biodiversity) has already been considered by the appropriate authority and authorisations are in place to the extent required. It follows that the ground of objection must be set aside by the MPT.
- 9.11 In paragraph 17 of the objectors letter reference is made to the Mabola Protected Environment. The objector acknowledges that the subject property does not form part of the protected environment as was declared in terms of the provisions of the National Environmental Management: Protected Areas Act, 2003. Nothing turns on the content of this paragraph save to confirm that the subject property is not situated within the ambit of the protected environment in question.
- 9.12 In paragraph 19 and following paragraphs reference is made to an environmental management framework as then prepared by Messrs SRK Consulting dd 2011.
- 9.13 The objector quotes from various passages of the Management Framework and Strategic Environmental Management Plan. However, no reference is made to the fact that the relevant environmental authorities and authorities responsible for water have granted authorisation for the intended use of the subject property as may be regulated in terms of such legislation. Legislation pertaining to environmental matters and the use of water fall beyond the ambit of the authorisation of the municipality and, as a result, the objection appears to be directed to the incorrect forum. As a result the objection falls to be set aside by the MPT.
- 9.14 In paragraph 21 of the objection (and paragraphs following same) reference is made to scientific reviews of the environmental impact assessments relevant to the property in question. Environmental considerations do not fall within the ambit of authorisation of the municipality per se and have been decided by other authorities. Appropriate authorisations are in place with regard thereto and, as a result, this objection is addressed to the incorrect forum and falls to be set aside. The same arguments pertain to groundwater, the anticipated impacts on fauna and flora and related environmental considerations.

- 9.15 In paragraph 27 the objector makes reference to certain judicial reviews with regard to mining rights and related matters. These are issues which fall beyond the ambit of authorisation of the municipality. On its part the municipality is not obliged to hold its decision with regard to the change in land use in abeyance until matters regulated by other laws are concluded. The submissions made in paragraph 27 and following paragraphs of the letter of objection are therefore of no particular consequence with regard to the decision to be taken by the municipality for the reasons aforesaid. As a result, the grounds of objection fall to be set aside by the MPT.
- 9.16 In paragraphs 33 to 37 of the letter of objection reference is made to the so-called "legal framework" which has regard to SPLUMA and NEMA and related legislation. Nothing appears to turn on the content thereof save to note that the municipality, as the decision maker of first instance, is authorized to take decisions with regard to land use changes within its area of jurisdiction. This is not affected by the submissions made by the objector in the aforesaid paragraphs and, as a result the ground of objection falls to be set aside by the MPT.
- 9.17 In paragraphs 38 and onwards, so-called "specific objections" are placed on record. It is alleged that there has been inadequate public participation. As is part of the record, the applicant approached the municipality in advance of giving notice of the application to discern what notification procedures (in addition to those described in the Municipal By-law) may be required on the part of the municipality. Thereafter the notification process was conducted strictly in accordance with the provisions of the by-law and the prescripts of the municipality. To allege that there has been no notification to interested and affected parties is therefore incorrect. The mere fact that the CER is on record as an objector suggests that the notification process was adequate to draw attention to the intentions of the land development applicant as contemplated in the by-law. This ground of objection has no foundation and falls to be set aside by the MPT.
- 9.18 In paragraph 40 of the letter of objection reference is made to so-called "desirability" associated with the proposed use of the subject property for mining and related purposes. As far as surface use is concerned (where the municipality's decision is focused), the objector is wrong in alleging that the impacts of the use of the land (at surface) will somehow also affect adjacent properties. Issues pertaining to subterranean water sources were decided by authorities other than the municipality in terms of different legislation and the municipality is not authorized to decide on such matters in any event. As a result the allegations by the objector fall to be set aside by the MPT. In further paragraphs the objector again refers to the Mabola Protected Environment, ecosystems and water sources, all of which have been attended to in previous paragraphs and will not be repeated. A number of allegations with regard to potential impacts of the change in use are presented in these paragraphs without any reference to proof to support the allegations. Given that authorities such as the Department of Mineral Resources and the National Department of Water Affairs and Sanitation have authorized various activities associated with surface use of the subject property is proof that the submissions made by the objector are without foundation and fall to be set aside by the MPT.
- 9.19 Under paragraph 41 the objector makes reference to "other laws relevant to the consideration of the application". It is alleged that there has been failure on the part of the applicant to conduct public participation in a proper manner and failure to conduct certain specialist investigations contemplated in an environmental management framework. All of the aforesaid matters fall to be considered by authorities other than the municipality. Such considerations have been completed and authorisations now form part of the record which is known to the objector. It is therefore clear that the submissions made by the objector merely repeat arguments presented to other authorities which have no bearing on the decision to be taken by the municipality in terms of its by-law read with

the relevant provisions of SPLUMA. As a result the objections have no foundation and fall to be set aside by the MPT.


- 9.20 The objector also attacks the integrity of the environmental summary which forms part of the application bundle as prepared by Ms C Baardjes of the firm Eco Partners. It is evident that the objector ignores the fact that the document in question is merely a summary of the environmental procedures that have already been concluded and the fact that environmental authorisation has been granted by the relevant authority (other than the municipality). As a result the submissions made in this regard are of no particular consequence and fall to be set aside by the MPT.
- 9.21 In paragraphs 47 up to 52 reference is again made to the fact that the subject property is situated beyond the boundaries of the declared protected area. The same arguments are again presented with regard to water and associated concerns which fall under the control of authorities other than the municipality and for which separate authorisations have indeed been procured by the land development applicant. These matters are not relevant to the decision to be taken by the municipality under the circumstances and, as a result the grounds of objection in this regard fall to be set aside by the MPT.
- 9.22 Under paragraphs 53 and 54 the objector attempts to interpret certain provisions of SPLUMA with regard to the intended change in use by the extension of the boundaries of the local town planning/land use scheme. It is evident that the author of the objection is not fully informed with regard to what is intended in SPLUMA and, upon a proper reading of the application it should be clear that it is the intention of the application to bring about an incorporation of the subject property into the boundaries of an existing scheme (as provided for in SPLUMA) and, simultaneously, to allocate the required land use zoning rights thereto so as to sanction the use of the land for mining and related purposes. It follows that the ground of objection is based on an incorrect interpretation of the aforesaid facts and as a result must be set aside.
- 9.23 In paragraphs 55 up to and including 63 the objector again repeats a number of earlier submissions with regard to conservation zones, the national interest, ecosystem priority areas, the Mabola Protected Environment and related matters. All of the aforesaid have been dealt with in previous paragraphs and with reference to the submissions made in the application bundle and will not be repeated. Suffice it to confirm that the submissions made by the objector are inherently aimed at environmental considerations which fall within the area of jurisdiction of an authority other than the municipality. It is evident that the submissions made to the municipality in this regard are aimed at the incorrect forum and, as a result must be set aside by the MPT.
- 9.24 In the final concluding paragraph 64 the objector submits to the municipality that the land development application should be referred to the National Minister in terms of Section 52 of SPLUMA for a decision to be joined as a party in the matter, alternatively to direct that the application be referred to the Minister for an ultimate decision. This submission is premised on an incorrect interpretation of the provisions of SPLUMA with particular reference to Section 52 thereof. Section 52 of SPLUMA, pertains to a development application which may affect national interest. The proposed change in the use of land, as contemplated in SPLUMA and the local by-law, is certainly not a matter within the exclusive functional area of the national sphere of government.
- 9.25 The proposed change in the use of land pertaining to a single property within the larger municipal jurisdiction certainly does not affect strategic national policy objectives, principles or priorities. The use of land for the purposes of mining (as opposed to the act of exploiting the mineral resources) is not a purpose which falls within the exclusive functional area of the national sphere of government. The aforesaid matters have been considered by the Constitutional Court and the relevant judgments are on record confirming same. It is therefore evident that the submissions by the objector in this regard are based on an



incorrect interpretation of the aforesaid provisions of SPLUMA and should therefore be set aside by the MPT.

The aforesaid is a summary of the responses of the land development applicant to the representations and objections on record at the Municipality. The applicant reserves its rights to amplify the aforesaid response should the matter proceed to hearing.

Yours faithfully



**PETER DACOMB**  
per: **THE PRACTICE GROUP**

D: 700299response to comments and objections(PJD'18/hvw)