



Centre for Environmental Rights
Advancing Environmental Rights in South Africa



URGENT

The Honourable Minister Gwede Mantashe
Minister of Mineral Resources and Energy

c/o Ms Vuyelwa Siyeka
Personal Assistant to the Minister
By email: Vuyelwa.Siyeka@dmre.gov.za

Advocate Thabo Mokoena
Director-General
Department of Minerals and Energy
By email: thabo.mokoena@dmre.gov.za; mamabefu.modipa@dmr.gov.za

cc: **Mr Pieter Alberts**
Head: Legal Services
Department of Mineral Resources and Energy
By email: Pieter.alberts@dmr.gov.za

cc: **Regional Manager: Mineral Regulation Western Cape**
By email: Pieter.swart@dmr.gov.za; busisiwe.magazi@dmr.gov.za

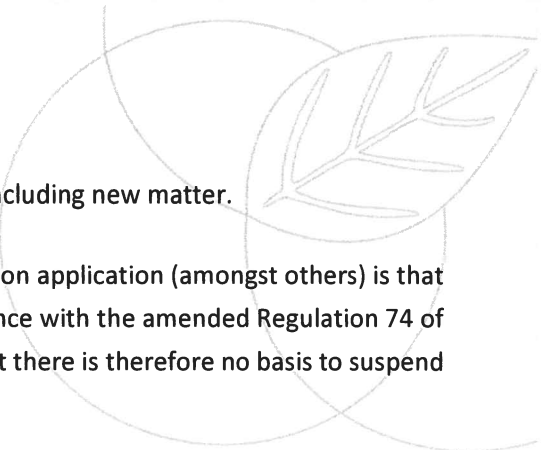
cc: **Ian Sampson**
Shepstone & Wylie Attorneys
Attorneys for the Right Holders
By email: sampson@wylie.co.za

16 October 2020

Dear Honourable Minister Mantashe and Adv. Mokoena

RE: REQUEST FOR SUSPENSION OF THE DECISION OF THE MINISTER OF MINERAL RESOURCES AND ENERGY, OR A DELEEGEE, TO GRANT AN AMENDMENT OF MINING RIGHT(S) IN RESPECT OF THE TORMIN MINE ON THE WEST COAST IN TERMS OF SECTION 102 OF THE MINERAL AND PETROLEUM RESOURCES DEVELOPMENT ACT

1. We refer to the Centre for Environmental Rights (CER) internal appeal lodged in terms of section 96(1) of the Mineral and Petroleum Resources Development Act, 2002 (MPRDA) on 21 September 2020, and its accompanying application lodged in terms of section 96(2) of the MPRDA to the Minister or delegee for the suspension of the decision, pending the outcome of the internal appeal ("the suspension application").
2. On 14 October 2020 the right holders lodged a document referred to as a reply to the suspension application in which they set out their reasons for opposing the suspension application.

- 
3. The reply raises both procedural and substantive grounds of opposition, including new matter.
 4. One of the reasons given for the rights holders' opposition to the suspension application (amongst others) is that they allege that the internal appeal is defective, arising from non-compliance with the amended Regulation 74 of the MPRDA regulations which came into effect on 27 March 2020, and that there is therefore no basis to suspend the section 102 decision as there is no valid appeal.
 5. The CER submits that there was sufficient substantial compliance with the amended Regulation 74 such that there is a valid appeal before you. It will nevertheless, for the sake of caution, take steps to remedy the alleged procedural defects and, to the extent necessary, seek condonation. We further submit that that there is no prejudice to the rights holders in that regard. They received a copy of the internal appeal which clearly states the decision appealed against, sets out the grounds on which the appeal is based, lists the affected persons that the CER is aware of (i.e. the rights holders) and is accompanied by supporting documentation referred to in the affidavit. The rights holders have also delivered the reply to the suspension application.
 6. In the circumstances of all of the above, the CER submits that it should be entitled to deliver a response to the reply in the suspension application and undertakes to do so by 28 October 2020.
 7. We therefore kindly request that the Minister or delegee does not decide the suspension application until the CER has delivered a response to the rights holders' reply in the suspension application.

Yours sincerely

CENTRE FOR ENVIRONMENTAL RIGHTS



per:

Zahra Omar

Attorney

Direct email: zomar@cer.org.za

