

Johannesburg • Durban • Cape Town • Richards Bay • Pietermaritzburg

The Honourable Minister Gwede Mantashe
Minister of Mineral Resources and Energy

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

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

CC: Mr. Pieter Alberts
Head: Legal Services
Per Email: Pieter.alberts@dmr.gov.za

CC: Regional Manager: Mineral Regulation
Western Cape
Per Email: Pieter.Swart@dmr.gov.za;
busisiwe.magazi@dmr.gov.za

CC: Centre for Environmental Rights
Per Email: zomar@cer.org.za;
lgovindsamy@cer.org.za

Ground Floor The Lodge 38 Wierda Road West Hunts End Wierda
Valley Sandton Johannesburg 2196
PO Box 2862 Saxonwold 2132
Docex: 12 Rosebank **Tel:** +27 11 290 2540
Email: info@wylie.co.za **Internet:** www.wylie.co.za
VAT Reg. No.: 4270104658

Facsimile +27 11 783 1301

URGENT

Your reference

Our Reference

Date

I Sampson/kam
TRAN29887.22

20 October 2020

Dear Honourable Minister Mantashe

REQUEST FOR SUSPENSION OF THE DECISION OF THE MINISTER OF MINERAL RESOURCES AND ENERGY, OR A DELEGEE, 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 letter dated 16 October 2020 from the Centre for Environmental Rights ("CER") addressed to you.
2. In paragraph 5 of the letter the CER makes the submission that there was "sufficient substantial compliance with the amended Regulation 74 of the Mineral and Petroleum Resources Development Regulations ("the Regulations") such that there is a valid appeal before you". We deny this. There is

Johannesburg: Partners: J Esterhuizen, T H Kamdar, L M Kotzé, N D Ntombela, I R Sampson, F van Rooyen, D Venter, J L Woker. **Senior Associates:** L Cleland, G Mathebula, N L V Vilakazi.
Associates: T Esterhuizen, S C Khan, R N Mampame.
Cape Town: Partner: P H Kumlehn. **Associate:** M Z Ncube.
Durban: Partners: R B Armstrong, M D Asherson, M J Bagwandeen, N Besesar, W P Coetzee, P C Cowan, S Davidson, E de Wet, A F Donnelly, A B Edwards, C Eve Friis, C J Field, J L Finnigan, E C Holmes, A W Lockem, M G Maeso, S A H Mkhize, M S Msomi, B D Nelson, M E Nkosi, K V Oosthuizen, V M Oosthuizen, A D Parsons, I R Sampson, J C Smith, Q van der Merwe, J M von Klemperer, D J Warmback, N P Woodroffe (Managing Partner). **Senior Associates:** P J Evelyn, D Joubert De Villiers. **Associates:** F A Christian, K A Hemero, N Kassier, W J Rajbansi, K Singh, S Singh, C M Wilson, A G Zwane.
Richards Bay: Partners: A J Heydorn, B C Morkel, B J van Rooyen. **Associate:** A P Kannigan.
Pietermaritzburg: Partners: B M Le Roux, J T Manuel, S G Shozi.
Consultants: Durban: S M S Dwyer, O M Oosthuizen, K Reddy, H N Theunissen. **Johannesburg:** J L Kotze.

in our view no valid appeal before you. Regulation 74 is clear and peremptory as to the manner in which appeals must be lodged and the information that must be supplied with them. It is not for the CER to elect which elements of the Regulations to comply with and which it may ignore. It has failed to comply in a number of material respects with the requirements. It admits a failure on its part to comply with the Regulations. This is alarming given that a substantial portion of the CER's appeal is premised on what it believes, but which our clients deny, is a failure by our clients to comply with the requirements of the Mineral and Petroleum Resources Development Act 28 of 2002. It clearly applies double standards. While the CER does not believe that it is required to comply strictly with the Regulations on the one hand, it maintains that our clients do. It cannot have it both ways.

3. The CER further submits that "there is no prejudice to the Rights Holder" notwithstanding that it has failed to comply with Regulation 74. This is not true. There is no statement on oath as required by Regulation 74(5) in which the grounds of appeal are set out in a manner in which the applicant can be held accountable for any allegations which may be misleading or harmful to the Rights Holders' interests. The decision the CER is seeking will, if issued, have significant and material implications not just for the Rights Holders, but also for their employees and a number of downstream service providers whose livelihoods rely on the continued operations at the mine. The CER cannot call for the suspension of mining operations without taking responsibility on oath for the allegations being made (which, for the avoidance of doubt, our clients deny).
4. We accordingly request that you proceed to issue your decision with respect to the suspension application in order to bring it to finality.

Yours sincerely

Ian Sampson
SHEPSTONE & WYLIE
(This document has been sent electronically and is therefore not signed)

A handwritten signature in black ink, consisting of a vertical line followed by a large, stylized loop.