

**PROPOSED MINING ON A PORTION OF THE
REMAINING EXTENT OF THE FARM ELANDS SPRUIT
NO 5523, ALFRED DUMA MUNICIPAL AREA
KWA-ZULU NATAL PROVINCE**

COMMENTS AND RESPONSE REPORT

REF NO: KZN 30/5/1/3/2/10817 MP

FEBRUARY 2023



NOTIFICATION OF STAKEHOLDERS AND I&AP'S OF THE ENVIRONMENTAL AUTHORISATION/MINING PERMIT APPLICATION

COMMENTING PERIOD: 30 SEPTEMBER – 31 OCTOBER 2022

The initial public participation entailed the placement of English and isiZulu site notices at the entrance to the property, Matiwane Community, the turnoff from the N11 onto Collings Pass Road, as well as the Ladysmith Library on 20 September 2022. As the southern neighbour (represented by Me Khumalo) does not have access to email, a meeting was held with her on 20 September 2022 where the project was explained, and comments invited. Me Khumalo was also supplied with an isiZulu version of the Executive Summary of the DBAR for her perusal and commenting.

The project was advertised in the Ladysmith Gazette on 30 September 2022, and isiZulu flyers explaining the project were distributed in Matiwane on 27 September 2022. The stakeholders and I&AP's were informed of the project with notification letters send via email, and the DBAR (with isiZulu Executive Summary) was available at the Ladysmith Library for 30 days. The commenting period for perusal of the documentation (listed above as well as the DBAR) and submission of comments ended 31 October 2022.

STAKEHOLDERS			
TITLE, NAME AND SURNAME	AFFILIATION/KEY STAKEHOLDER STATUS	CONTACTED DATE	RESPONSE RECEIVED
Ms SS Ngiba, Me K Grobler Me S Magudulela Mr R Mazibuko	Alfred Duma Local Municipality	30 September 2022	No response received during this commenting period
Mr TP Dlamini	Alfred Duma Local Municipality Ward Councillor Ward 23	30 September 2022	No response received during this commenting period

STAKEHOLDERS			
TITLE, NAME AND SURNAME	AFFILIATION/KEY STAKEHOLDER STATUS	CONTACTED DATE	RESPONSE RECEIVED
Mr TN Ngcobo	Alfred Duma Local Municipality Ward Councillor Ward 24	30 September 2022	No response received during this commenting period
Me P Ndabezitha	AMAFA	04 August 2022	19 August 2022
Greenmined applied in terms of Section 41 of the KwaZulu-Natal AMAFA and Research Institute Act (5/2018) and the NHRA, 1999 for comments on the proposed development of a site to AMAFA.			
Greenmined presented the project at the Heritage Officers' Committee Meeting of AMAFA on 17 August 2022.			
AMAFA approved and closed the application on the SAHRIS website without any additional comments.			
Mr S Sibande	Department of Agriculture and Rural Development and Land Reform - KZN	30 September 2022	06 October 2022
DARD confirmed receipt of the application and mentioned that the application was captured in the electronic land use database with reference number: 2020/12/4975.			

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<p>Comments received from DARD on the DBAR (27 November 2022):</p> <p>“1. PURPOSE</p> <p>To provide comments from the KZN Department of Agriculture and Rural Development (DARD): Agricultural Resources Management (ARM) – Land Use Regulatory Unit (LURU), in response to the Proposed Mining on a portion of the remaining extent of the Farm Elands Spruit No. 5523, Alfred Duma Municipal Area, KwaZulu-Natal Province.</p> <p>2. BACKGROUND</p> <p>2.1 The Applicant, Raubex Construction (Pty) Ltd applied for environmental authorisation (EA) and mining permit (MP) over a footprint of 4.9 Ha of the remaining extent of the farm Elands Spruit No. 5523 (317.74 HA in total extent), uThukela Magisterial District, KwaZulu-Natal. This is located along the Collings pass (P263 road) just of the N11 road about 26 km north east of Ladysmith in the direction of New Castle. The mine is approximately 10 m from the P263 road. This small 10 m stretch will need an upgrade to accommodate haulage trucks from the quarry. According to the Environmental Assessment practitioner the old quarry was an historical mine used for the building of N11 Road way back in the 70’s. There is no previous mining permit for the previous operation.</p> <p>2.2 The proposed mining operation will entail extension of the existing quarry via conventional open cast mining methods. The following mining processes are involved; site establishment and infrastructure development, striping and stockpiling topsoil from the proposed mining footprint area, the mining method will make use of blasting to loosen the hard rock. The loosen material will then be transported to crushing and screening processing plant where it will be screened to various sized stockpiles before it is sold and transported from the mining sites.</p> <p>2.3 It should be noted that the impact on the quality of the air of the surrounding environment if properly managed, should be at an acceptable level of low-medium significance. The same applies to ambient noise levels.</p> <p>2.4 The proposed mining area falls within 550 m from wetland and requires a Water Use Authorisation in terms of the National Water Act, 1998. The stock pile area has been selected as areas without notable seeps or wetlands within the confines of the mining footprint. The stock pile area is more than 170 m from the outer boundary of the wetland, and therefore outside the 70 m buffer proposed by the specialist.</p>			

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<p>2.5 The Proposed project will utilise chemical toilets for approximately 8 staff under its employment. Storm water management plan for the site must be properly planned to prevent erosion in the adjacent farmlands and pollutions of nearby wetland systems.</p> <p>2.6 The studies indicated on the aspects of terrestrial Biodiversity, conservation Areas and ground cover shows that a critical Biodiversity area (CBA) extends across the western boundary of the site. This area has been disturbed by the existing quarry therefore the section categorised as CBA optimal does not qualify to be in that category as a result. Aloe species observed in this area must be rescued and relocated to safer environment within the farm.</p> <p>2.7 It has been determined that No sites observation of archaeological, palaeontological or cultural importance exist within the study area. It is therefore important to ensure that all mitigation measures proposed for notable impact studies be observed in the strictest sense to ensure that existing infrastructures on the farm or neighbouring properties will not be adversely impacted by the proposed project.</p> <p>2.8 This application is submitted in terms of the Mineral and Petroleum Resources Development Act (Act 29 of 2002) as amended. It is required that the applicant is fully compliant in terms of the provisions of the National Environmental Management Act NEMA (Act 107 of 1998). In terms of section 16(3)(b) and 17(c) under EIA regulations, 2014.</p> <p>3. COMMENTS</p> <p>3.1 A site inspection was conducted to the Farm Elands Spruit on 11 October 2022. The property is a stock grazing farm. According to the KZN Department of Agriculture and Rural Development Land category's Map of 2012, The Farm is a Category B Land.</p> <p>3.2 The mining operations must be conducted in accordance with the best practice guideline for small scale mining in relation to storm water management, erosion/sediment control, and waste management. It should be noted that any other measures such as prevention of contaminated water from spilling into clean water system such as ground water and wetland systems must be ensured through collection and containment of contaminated water in systems such as berms, pools, dams or attenuation ponds with this regard.</p> <p>3.3 It should be noted that all impact mitigations identified must be strictly implemented as there are a number of them that ranges from noise, storm water attenuation for erosion/silting control, ground water and air pollution prevention to blasting impact on the farm and neighbouring infrastructure. The rehabilitated land must be continuously utilised for one form of agriculture or the other after the useful life of the quarry.</p>			

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<p>3.4 It must be ensured that the mining area is properly fenced off to prevent incursion by livestock and human which can lead to injury of animals or in extremity the death of livestock. The applicant must ensure that proper sanitation of the environment is ensured and wastes must be disposed of appropriately in designated disposal systems at all times.</p> <p>3.5 The EAP consultant has indicated that blasting impact on the nearest buildings will be measured by a vibrometer to be installed at both the blasting site and by the buildings to ensure monitoring of blasting activity within regulated limits. It was further expressed that no significant impact is expected as the buildings are said to be more than 500m from the blasting site.</p> <p>4. RECOMMENDATION</p> <p>This office has no objection to the proposed mining on a portion of the remaining extent of the Farm Elands Spruit No. 5523, subject to 3.2, 3.3, 3.4 and 3.5 above.”</p>			
<p>Response from Greenmined on the comments received from DARD sent 01 November 2022:</p> <p>“Greenmined herewith acknowledge receipt of the comments submitted by DARD on the mining permit application submitted by Raubex Construction (Pty) Ltd over the Remaining Extent of the farm Elands Spruit No 5523 in the Ladysmith region. We would like to thank you for the interest you took in this project and the comments that were submitted. The comments will be incorporated into the final Basic Assessment Report to be submitted to the DMRE for decision making in due course. The DARD will be informed of the DMRE’s decision within 7 days of receipt thereof.”</p>			
Me FS Magwaba	Department of Agriculture, Land Reform and Rural Development (National)	30 September 2022	No response received during this commenting period
Mr. D Gwede	Department of Economic Development, Tourism and Environmental Affairs	30 September 2022	No response received during this commenting period

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Ms B Msane, Me GY Uyabulelwa Me L Dladla	Department of Human Settlements, Water and Sanitation	30 September 2022	No response received during this commenting period
Me T Kunene	Department of Labour	30 September 2022	No response received during this commenting period
-	Department of Land Affairs	30 September 2022	21 October 2022
<p>The Commission of Restitution of Land Rights confirmed that at the date of their letter, no land claims appear on their database in respect of the property described as the Remaining Extent of the farm Elands Spruit No. 5523. This includes the database for claims lodged by 31 December 1998 and those lodged between 01 July 2014 and 27 July 2016 in terms of the provisions of the Restitution of Land Rights Act, 22 of 1994 (as amended).</p>			
Me J Reddy	Department of Transport	30 September 2022	No response received during this commenting period
Mr T Govendor Mr Khahliso Makale	Eskom Ltd	30 September 2022	No response received during this commenting period
Mr D Wieners	Ezemvelo/KZN Wildlife	30 September 2022	No response received during this commenting period

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Me L Sewnarain	SANRAL – Eastern Region	30 September 2022	No response received during this commenting period
SAHRIS website	South African Heritage Resource Agency	30 September 2022	No response received during this commenting period
Mr MB Mnguni	uThukela District Municipality	30 September 2022	No response received during this commenting period

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES			
TITLE, NAME AND SURNAME	AFFILIATION/KEY STAKEHOLDER STATUS	CONTACTED DATE	RESPONSE RECEIVED
Mr FP Oosthuizen	Landowner of: <ul style="list-style-type: none"> • Remaining Extent of the farm Elands Spruit No 5523; • Portion 4 of the farm Elands Laagte No 1239; and • Portion 20 of the farm Elands Laagte No 1239. 	30 September 2022	No response received during this commenting period
Mr Oosthuizen supports the application and signed a landowner agreement with the Applicant. Mr Oosthuizen was also invited to comment on the DBAR, however, no additional comments were received.			

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

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Mr IF Mitchell-Innes	Contact person for Mr WS Mitchell-Innes and Me H Mitchell-Innes who respectively owns: <ul style="list-style-type: none"> • Portion 6 of the farm Roode Poort No 1045; and • Elands Spruit No 16154. 	30 September 2022	No response received during this commenting period
Mr SB Mgaga	Owner of Portion 1 of the farm Roode Poort No 1045.	After numerous attempts to contact Mr Mgaga and request his comments on the project, no reply was received.	
Cllr TN Ngcobo & Cllr TP Dlamini	Community of Matiwane	30 September 2022	No response received during this commenting period
Matiwans Kop Trading Co	Owner of Portion 2 of the farm Elands Spruit No 5523	After numerous attempts to contact the Matiwane Kop Trading Co (Mr Ali) and request their comments on the project, no reply was received.	
Me Z Khumalo	Surrounding neighbour (South)	20 September 2022	20 September 2022

A meeting was held with Me Khumalo (in Ladysmith) to inform her of the application. The meeting was held in English and isiZulu, and English and isiZulu pamphlets introducing the project were also handed to Me Khumalo during the meeting. Me Khumalo mentioned that she is concerned with the effect that blasting at the quarry will have on the integrity of their houses as well as their cattle, she also mentioned the potential of flyrock falling on their infrastructure.

It was explained to Me Khumalo that prior to the first blast an assessment of the structural integrity of their houses will be done. They will be notified prior to each blast and vibration monitoring will be done with each blast. Should the results indicate that the blast has a real impact on the infrastructure, the blast designs will be amended. Any damage to the infrastructure as a direct result of the mining activities will be refurbished by the permit holder at his cost. Prior

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<p>to each blast the perimeter of the quarry will be checked for animals. Notice of the blast will be well in advance to allow the surrounding landowners time to move their cattle away from the quarry. Any flyrock that may fall outside the permit boundary will be collected by the permit holder after each blast.</p> <p>Following earlier discussions with Me Khumalo, the isiZulu Executive Summary of the DBAR was sent to Me Khumalo for her perusal and commenting. No comments were received from Me Khumalo.</p>			
Rotimode (Pty) Ltd	Prospecting right holder on the property.	20 September 2022	No response received during this commenting period
Bukhali Environmental Resource Consulting on behalf of Afrimat Aggregates (Pty) Ltd (Bukhali)	Afrimat Aggregates (Pty) Ltd: Ladysmith Quarry	-	31 October 2022
<p>Bukhali submitted the following objections against the proposed application on behalf of Afrimat Aggregates (Pty) Ltd:</p> <p>“...1. We have been appointed by our client Afrimat Aggregates KZN (Pty) Ltd to assist them in providing comments on the proposed application for a mining permit, however, we have drafted this letter as an objection to the proposed application due the absence of material and substantive information as part of this process.</p> <p>2. A copy of this objection will simultaneously be submitted to the DMRE as the Competent Authority (CA) in this application.</p> <p>3. The purpose of this letter is two-fold:</p> <p>3.1. to provide comments on the application for an Environmental Authorisation (“EA”) to conduct mining activities on the Farm Elands Spruit No. 5523, Alfred Duma Municipal Area, KwaZulu-Natal Province, and registered under Reference Number: KZN 30/5/1/3/2/10817 MP, the Draft Basic Assessment Report (“DBAR”) dated September 2022, all relevant documents and specialist assessments forming part of this application; and</p> <p>3.2. to object against the issuing of an EA in terms of the EIA Regulations, 2014 as amended due to incorrect/misleading/outdated information pertaining to this process.</p>			

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<p>Identification of the correct listed activities in terms of the NEMA EIA Regulations, 2014 as amended</p> <p>4. A copy of the advert as part of the Public Participation Process (“PPP”) as it appeared in the Ladysmith Gazette on Friday 30 September 2022, is attached as Annexure “A”.</p> <p>5. The details of the advert inter alia identified mining activities that triggers certain listed activities in terms of the relevant NEMA EIA Regulations, 2014 as amended as they apply to the proposed mining activities:</p> <p>5.1. It is indicated in this advert that the “...proposed mining footprint will be 4.9 ha and will entail the expansion of the existing quarry on the property.” The identified listed activities as they appear in this advert does not address any of the listed activities that refer to “expansion” in the relevant EIA Regulations, 2014 as amended.</p> <p>5.2. You further identify Listing Notice 3 (“LN3”) activities for inter alia the “...development of a road wider than 4 metres with a reserve less than 13.5 metres g. Northern Cape ii(ee) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans” (Activity 4), “The clearance of an area of 300 square metres or more of indigenous vegetation g. Northern Cape ii. within critical biodiversity areas identified in bioregional plans;” (Activity 12) and “The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre g. Northern Cape ii(ee) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans” (Activity 18).</p> <p>Critical Biodiversity Areas (CBAs) – Terrestrial Biodiversity Impact Assessment (Mora Ecological Services (Pty) Ltd 2022)</p> <p>5.3. The Terrestrial Biodiversity Impact Assessment (“Terrestrial Assessment”) compiled by Mora Ecological Services (Pty) Ltd, 2022 indicates on p13 of their assessment that “...only less than 20% of site falls within a CBA Optimal.”</p> <p>5.4. The Terrestrial Assessment further states on p13 that “...the current impacts on the quarry, the section categorized as CBA Optimal does not qualify to be in that category.”</p> <p>5.5. In section 7 of the Terrestrial Assessment, the specialist indicate that “...the site does not have important plant species that warrant conservation but is relatively in good health.”</p> <p>5.6. Under the “Background and Executive Summary” of the Terrestrial Assessment, the specialist indicate that “...the site was visited during a field survey in August 2022. This allowed for the assessment of the habitat integrity and status of the vegetation that was identified during the desktop review.”</p>			

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<p>Specialist Wetland Assessment Report – Proposed Expansion of the Elandspruit Quarry near Ladysmith (February 2017)</p> <p>5.7. The Specialist Wetland Assessment Report (“Wetland Assessment”) is dated as February 2017, however, the header of the entire report refers to February 2016.</p> <p>Conclusion on objection and relief sought</p> <p>6. We request that the Department of Mineral Resources and Energy (DMRE) refuse the current application for an EA, on the following grounds:</p> <p><u>Material error of facts and misrepresentation of information in newspaper advert</u></p> <p>6.1. The advert dated Friday 30 September 2022 and placed in the Ladysmith Gazette calling for the registration of Interested and Affected Parties stated, incorrectly, and as a material fact that the proposed activity triggers certain listing notice 3 related activities in the Northern Cape. It is our opinion that misleading information was published to inform the public of the proposed activities and that as a minimum, the applicant should re advertise this process including all the correct and relevant information pertaining to this application.</p> <p><u>Lack of substantive minimum legislative information – Terrestrial Assessment</u></p> <p>6.2. The Protocol for the Specialist Assessment and Minimum Report Content Requirements for Environmental Impacts (“Terrestrial Minimum Requirements Protocol”) on Terrestrial Biodiversity published in Government Notice No. 320 of 20 March 2020 contain the minimum requirements that a Terrestrial Assessment should adhere to, especially in dealing with biodiversity features of a “very high sensitivity rating.”</p> <p>6.3. The Terrestrial specialist indicated that a section of the proposed mining permit application site is classified as a Critical Biodiversity Area (CBA) Optimal, which are areas that are optimally located to meet both the various biodiversity targets and other criteria defined in the analysis. Although these areas are not ‘irreplaceable’ they are the most efficient land configuration to meet all biodiversity targets and design criteria.</p> <p>6.4. The Terrestrial Minimum Requirements Protocol clearly stipulates that “If any part of the proposed development footprint falls within an area of “very high” sensitivity, the assessment and reporting requirements prescribed for the “very high” sensitivity apply to the entire footprint...” Minimum baseline requirements for such an assessment will include inter alia the following:</p> <p>6.4.1. ecological functioning and ecological processes (e.g. fire, migration, pollination, etc.) that operate within the preferred site;</p> <p>6.4.2. the ecological corridors that the proposed development would impede including migration and movement of flora and fauna;</p> <p>6.4.3. ecological connectivity, habitat fragmentation, ecological processes and fine scale habitats;</p>			

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<p>6.4.4. species, distribution, important habitats (e.g. feeding grounds, nesting sites, etc.) and movement patterns identified; and</p> <p>6.4.5. the assessment must identify any alternative development footprints within the preferred site which would be of a “low” sensitivity as identified by the screening tool and verified through the site sensitivity verification.</p> <p>6.5. It is our opinion that the Terrestrial Specialist Assessment failed to address the minimum baseline requirements for an assessment of such a magnitude as indicated in point 4.4 above. Their statement on p13 of the Terrestrial Assessment that “...the section categorised as CBA Optimal does not qualify to be in that category”, is a total disregard for the presence and future of these sensitive ecological systems as part of the development footprint and falls far short of the minimum standard of addressing impacts associated with a CBA.</p> <p>6.6. At the very least, where the information gathered from the site sensitivity verification differs from the designation of “very high” terrestrial biodiversity sensitivity on the screening tool and it is found to be of a “low” sensitivity, then a Terrestrial Biodiversity Compliance Statement must be submitted This is not the case, as on their on version, Figure 7: Conservation plan of the study site on p21 of the Terrestrial Assessment clearly indicate a large portion of the site as “High Sensitivity”.</p> <p>6.7. Under section 7 of the Terrestrial Assessment the specialist indicate that “...the site does not have important plant species that warrant conservation but is relatively in good health.” However, under section 8 on p24 of the very same report, the specialist concludes that “Of great concern are the Aloe species that area located within the project boundary” and under Floral features on piii it is stated that “In terms of Species of Conservation Concern, only Aloes were observed on site.” It is our opinion that this assessment fails to consider the serious nature dealing with sites that are identified as sites with biodiversity features of very high importance.</p> <p>6.8. The Terrestrial Assessment identified the vegetation type on site consisting of Northern KwaZulu-Natal Moist Grassland, however, their report is silent on the fact that this vegetation type is regarded as Vulnerable, and no further assessment was conducted to identify and describe the negative impacts the proposed mining operation will have on this grassland.</p> <p>6.9. It is trite that the physical site assessment was conducted on or about August 2022, however, the report is silent on the specific date this assessment took place. It is our opinion that the specialist failed to appreciate the minimum content required for a Terrestrial Biodiversity Specialist Assessment Report, especially in an area consisting of ecological features with very high sensitivity. The Terrestrial Minimum Requirements Protocol list these under section 3, and the wording of “...must contain, as a minimum...” removes any discretion to ignore the inclusion of these minimum standards in terrestrial assessment reports.</p> <p>6.10. Some of the minimum substantive information absent from the Terrestrial Assessment includes inter alia the following:</p> <p>6.10.1. a statement on the duration, date and season of the site inspection and the relevance of the season to the outcome of the assessment;</p> <p>6.10.2. any direct, indirect and cumulative impacts of the proposed development;</p>			

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<p>It is our opinion, especially taking into consideration the presence of CBAs</p> <p>6.11. as part of the proposed mining footprint, the specialist failed to consider the most appropriate time of year to conduct their physical site assessment. It is common practice that these investigations, especially dealing with CBAs, should at least take place during Spring and after the first rain. It should also, as a minimum consider Herpetological species that hibernate during the colder winter months, and migratory avifauna species.</p> <p>6.12. The Terrestrial Assessment does not contain any reference to a consideration or discussion of cumulative impacts that the proposed development will have on the sensitive ecological features on site.</p> <p>6.13. It is our opinion that the Terrestrial ecologist should re-consider the required minimum requirements for terrestrial assessments and that as a minimum a physical site assessment should be conducted during the most appropriate time of year to properly assess all the relevant biological and ecological factors associated with CBAs.</p> <p>6.14. It is stated that the current Terrestrial Assessment falls substantially short of the minimum requirements of these type of assessments and that as a minimum this report should be revised to incorporate all the relevant aspects pertaining to these minimum requirements.</p> <p>6.15. It is further requested that an updated version of the Terrestrial Report should be objectively and externally reviewed by an appropriate Ecologist.</p> <p><u>Validity of Specialist Wetland Assessment</u></p> <p>6.16. The Department of Forestry, Fisheries and the Environments' (DFFE) GIS database Screening Tool was accessed to identify sensitive freshwater ecological areas that may be impacted on by the proposed development. One of the site features is that the proposed mining activity will take place within a Strategic Water Source Area with a Very High Terrestrial Biodiversity.</p> <p>6.17. The Protocol for the Specialist Assessment and Minimum Report Content Requirements for Environmental Impacts on Aquatic Biodiversity published in Government Notice No. 320 of 20 March 2020 contains the minimum requirements and criteria a for the specialist assessment and minimum report content requirements for impacts on aquatic biodiversity for activities requiring environmental authorisation.</p> <p>6.18. As much as we would like to comment on the contents of the Specialist Wetland Assessment conducted by Eco-Care Consultancy (Pty) Ltd dated February 2017 pertaining to the minimum requirements of the relevant protocol, we submit that the report is wholly outdated for an application submitted in 2022.</p> <p>6.19. We request that the wetland specialist indicate in a signed affidavit the date that the physical site assessment took place due to the discrepancy in their report as to February 2016 versus February 2017.</p> <p>6.20. We require as a minimum an updated physical site assessment, and an updated Freshwater Ecological Assessment to adhere to the relevant minimum requirements of the protocol for the assessment of freshwater ecological assessments.</p>			

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<p>6.21. It is submitted that the current specialist wetland assessment is outdated and that the Competent Authority (CA) cannot take an informed decision on this application in the absence of update information.</p> <p>Conclusion</p> <p>7. Based on the foregoing, we submit that we have made a compelling case for the Competent Authority (CA) to request further detailed and updated information regarding the identification of the correct listed activities and specialist assessments, and that our client reserve their right to further provide comments on the EA application process of the applicant.</p> <p>8. We submit that this application for an EA in its current format falls short of the minimum requirements for such applications, especially having regard to the permanent impacts of mining on the environment.</p> <p>9. We have not provided any comments on the DBAR and the EMPr, as it is our opinion that the relevant Terrestrial and Wetland Assessments lack material and substantive minimum information to be incorporated in the relevant DBAR and EMPr. This should not be construed as a failure by our client to exercise their right to further participate in this process.”</p>			
<p>Greenmined responded as follows to the objection received from Bukhali against the application (11 November 2022):</p> <ol style="list-style-type: none"> 1. “The above matter as well as your objection letter dated 31 October 2022 refers. We take note that you act on behalf of Afrimat Aggregates (Pty) Ltd and herewith we respond on behalf of the applicant in point form, corresponding with your letter’s paragraphs. 2. The content of your paragraph 2 is noted, which comment will be included in the FBAR (Final Basic Assessment Report). 3. The content of your paragraph 3 is noted, which comment will be included in the FBAR. 4. The content of your paragraph 4 is noted, which comment will be included in the FBAR. 5. The content of your paragraph 5 is noted, which comment will be included in the FBAR. 			

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<p>5.1 None of the listed activities that refer to expansion in the EIA Regulations, 2014 (as amended) is applicable to the proposed project, and therefore none of them were applied for nor advertised.</p> <p>5.2 It is clear from the content of the application that the inclusion of the words “Northern Cape” as part of the listed activities of Listing Notice 3 is a <i>bona fide</i> error, which will be corrected during the current public participation process.</p> <p>5.3 The content of your paragraph 5.3 is noted, which comment will be included in the FBAR. It should be noted that the section was removed from the revised TBIA. Kindly refer to Figure 5 of the revised TBIA (Terrestrial Biodiversity Impact Assessment), which shows the extent of the CBA in comparison to the mining permit area. Furthermore, please refer to paragraph 2 of page 27, in which section the CBA is more fully discussed.</p> <p>5.4 The content of your paragraph 5.4 is noted, which comment will be included in the FBAR. It should be noted that this section was removed from the revised TBIA. Kindly refer to page 27 of said TBIA for further clarification.</p> <p>5.5 The content of your paragraph 5.5 is noted, which comment will be included in the FBAR. Kindly note that said section was removed from the revised TBIA.</p> <p>5.6 Kindly note that the ecologist conducted a subsequent site inspection on 04 November 2022 to verify the initial findings of the TBIA. Please also refer to the last paragraph on page 25 of the revised TBIA.</p> <p>5.7 It should be noted that the date contained in the header was a mistake by the specialist. This was corrected in the 2017 report and the specialist confirmed that the original wetland delineation and assessment field work was conducted on 02 January 2017, with the final report submitted on 22 February 2017 (refer to page 3 of the 2022 Wetland Specialist Opinion).</p> <p>6. It should be noted that the FBAR has not yet been submitted and therefor the DMRE is unable to make a determination at this stage. Once the FBAR has been submitted, which report will include all specialist studies, with comments and objections received from interested and affected parties, the DMRE will be in a position to make an informed decision.</p> <p>6.1. Although the province was erroneously referred to on the advertisement as the Northern Cape, the content of the listed activities remains the same. Therefore, it should be clear that the inclusion of the incorrect province was indeed a <i>bona fide</i> mistake and that it was never the intention of the applicant to mislead the public. In support hereof, an erratum advertisement will appear in the Ladysmith Gazette on 11 November 2022. On-site notices informing the public of the bona fide mistake were positioned at the entrance to the farm (site), the Matiwane Community, Stolo Phezulu</p>			

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

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<p>Store, turnoff from the N11 onto Collings Pass Road, and the Ladysmith Library on 10 November 2022. An email notification was also sent to all I&AP's and stakeholders. Consequently, an additional 30-day period has been provided for comments on the application, which period comes to an end on 12 December 2022.</p> <p>6.2. Section 2 of the Protocol for the Specialist Assessment and Minimum Report Content Requirements for Environmental Impacts on Terrestrial Biodiversity notes that: <i>“Prior to commencing with a specialist assessment, the current use of the land and the potential environmental sensitivity of the site under consideration as identified by the screening tool must be confirmed by undertaking a site sensitivity verification.”</i></p> <p>2.3: <i>“The outcome of the site sensitivity verification must be recorded in the form of a report that:</i></p> <p><i>(a) confirms or disputes the current use of the land and environmental sensitivity as identified by the screening tool;</i></p> <p><i>(b) contains a motivation and evidence (e.g. photographs) of either the verified or different use of the land and environmental sensitivity; and</i></p> <p><i>(c) is submitted together with the relevant assessment report prepared in accordance with the requirements of the Environmental Impact Assessment Regulations.”</i></p> <p>This was done by the specialist and discussed in the TBIA on page 18 and page 26 that concluded that the site is of Low Ecological Function due to the habitat fragmentation and previous disturbance. The areas that harbor the provincially protected <i>Aloe marlothii</i> plants were categorised as Medium Sensitive Areas (Figure 12 of the TBIA).</p> <p>According to the Screening Tool the reason for the Very High Sensitivity of the site is that it falls within a CBA and Strategic Water Source Area (SWSA). The position of the CBA in relation to the mining permit footprint is shown in Figure 5 page 17 of the TBIA, and the wetland specialist confirmed in the 2022 Wetland Opinion on page 17 Figure 1 that the mining area is located ±12.5 km away from the nearest SWSA. As a small section of the mining permit footprint does extend into a CBA (even though it is highly disturbed) a TBIA was commissioned.</p> <p>Furthermore, in terms of the Gazetted Terrestrial Biodiversity Assessment Protocols you will note that all the minimum requirements have been met, save for provision 3.3, which will be complied with as part of the FBAR.</p> <p>6.3. The content of your paragraph 6.3 is noted, which comment will be included in the FBAR. Kindly refer to page 15 (Figure 5) and page 26 of the TBIA.</p> <p>6.4. The TBIA was conducted for the entire 4.9 ha application area (not only the CBA section) with the following objectives:</p> <ul style="list-style-type: none"> • To provide a description of the flora and fauna occurring around the proposed project area. 			

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

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<ul style="list-style-type: none"> • To provide description of any threatened species occurring or likely to occur within the study area in terms of the National Red List Status (SANBI, 2012) and Red Data List (IUCN, 2018) specifying species that are either: rare, threatened, endangered, or critically endangered. • Determine conservation priority areas according to authorised Critical Biodiversity Areas (CBAs). • To describe the available habitats on the study site including areas of important conservation value. • Identify and assess the potential impacts associated with a proposed development. <p>Although the assessment is applicable to the entire area, the revised TBIA concludes that the area indicated as a CBA on the 2014 KZN Biodiversity Sector Plan and Screening Tool does not warrant a rating of “very high” due to the reasons listed in the revised TBIA. Kindly refer to paragraph 6.2 above for the minimum protocol requirements.</p> <p>6.4.1. The content of your paragraph 6.4.1 is noted, which comment will be included in the FBAR.</p> <p>6.4.2. The content of your paragraph 6.4.2 is noted, which comment will be included in the FBAR.</p> <p>6.4.3. The content of your paragraph 6.4.3 is noted, which comment will be included in the FBAR.</p> <p>6.4.4. The content of your paragraph 6.4.4 is noted, which comment will be included in the FBAR.</p> <p>6.4.5. The content of your paragraph 6.4.5 is noted, which comment will be included in the FBAR.</p> <p>6.5. The ground truthing of the area showed that there are no ecological features of very high sensitivity on site and did not identify any area that complies with the definition of a CBA in accordance with 2.3.7.1 of the Terrestrial Biodiversity Protocols. However, the statement as contained on page 13 of the revised TBIA has been amended and it should furthermore be noted that the application area has already been disturbed by mining. There is an existing mining permit over said application area, although mining has not yet commenced, as the holder is awaiting tender approvals. Due to the aforementioned the application area has already been identified as a “development” and therefore not as sensitive as indicated on the screening tool.</p> <p>6.6. The content of your paragraph 6.6 is noted. The TBIA was updated and no need for a Terrestrial Biodiversity Compliance Statement was identified.</p>			

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

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<p>6.7. Ground truthing confirmed that there is no CBA present in the footprint of the application area. The specialist however did revisit the site in November 2022 as noted in the updated TBIA. The TBIA has been revised and the specialist found that the site sensitivity was not of Very High importance, but Medium at the most in the areas where there are Aloes. The Aloes will be relocated upon receipt of the relevant permits from Ezemvelo/KZN Wildlife, and this will then comply with the condition of the specialist prior to the commencement of development.</p> <p>6.8. Kindly refer to page 26 for a discussion on the findings of the ecological assessment.</p> <p>6.9. The inspection dates are contained on page 25 of the revised TBIA. It is also confirmed that none of the species that conform to the site sensitivity ratings for Very High in the screening tool were found on the site. Please refer to Table 1 on page 19 of the revised TBIA.</p> <p>6.10. The content of your paragraph 6.10 is noted, which comment will be included in the FBAR.</p> <p>6.10.1. Kindly refer to page 25 of the revised TBIA.</p> <p>6.10.2. Kindly note that the information as requested were added to the revised TBIA. See paragraph 6.9 above. In terms of the cumulative impacts kindly refer to page 29 to 41 of the revised TBIA.</p> <p>6.11. The specialist revisited the site during November 2022. The site was therefore visited during both the dry and wet seasons and no additional species of concern were noted. A further condition was added to the revised TBIA that prior to commencement of activities on the site, a specialist must do a walkthrough of the site.</p> <p>6.12. Kindly note that the cumulative impacts were added to the revised TBIA.</p> <p>6.13. As previously mentioned in paragraph 6.11 above, the site was visited during both seasons, which was included in the revised TBIA.</p> <p>6.14. The TBIA has been revised accordingly and therefore complies with all the requirements.</p>			

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

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			<p>6.15. We take note of your request that the TBIA be reviewed by an external and objective Ecologist, however, it should be noted that the minimum requirements do not require the TBIA to be reviewed. Therefore, the TBIA, as revised, will be available for comments until 12 December 2022.</p> <p>6.16. We would like to refer you to page 15 of the 2022 Wetland Opinion. Even though the Screening Tool classified the site as Very High Sensitivity due to a Strategic Water Source Area (SWSA); the Strategic Water Source Areas spatial data (2017) however confirms that the project site is ±12.5 km from the nearest SWSA.</p> <p>6.17. The content of your paragraph 6.17 is noted, which comment will be included in the FBAR.</p> <p>6.18. Kindly refer to the 2022 Wetland Opinion compiled by Nkurenkuru Ecology and Biodiversity with specific reference to page 4 and page 11. Even though the report was compiled during 2017 the specialist confirmed that the results and findings of the 2017 report are still in effect as at November 2022.</p> <p>6.19. See response in paragraph 5.7 above.</p> <p>6.20. Kindly refer to page 3 of the 2022 Wetland Opinion compiled by Nkurenkuru Ecology and Biodiversity.</p> <p>6.21. The screening tool shows that the aquatic biodiversity theme of the footprint area is of Low Sensitivity, the KZN BSP (2016) does not show any aquatic/freshwater CBA within the proposed mine footprint. The SANBI SWSA spatial data furthermore confirms that the footprint does not extend across a SWSA, and the specialist determined that there are no aquatic/wetland features within the application site. The specialist further confirmed that the findings of the 2017 report is still in effect and addressed the matter of the minimum requirements of the protocols. Therefore, with due respect to your objection, no need for a new Freshwater Ecological Assessment could be identified.</p> <p>7. The additional public participation currently being conducted due to the <i>bona fide</i> error on the public participation documents, the updated/revised TBIA, and 2022 Wetland Opinion, as well as any additional comments that may be received as part of this process, will form part of the FBAR to be submitted to the DMRE for decision making. Neither the amendment of the TBIA nor the findings of the 2022 Wetland Opinion effected significant changes to the</p>

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

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<p>DBAR nor presented significant new information that changes the outcome of the report; therefore, no need exists for the re-advertisement/re-publishing of the DBAR.</p> <p>8. We trust that the amendments made to the application satisfies the minimum requirements and therefore in its revised format the EA application conforms to the minimum requirements. Furthermore, it should be noted that the proposed mine will be of temporary nature, whereafter the affected area will be rehabilitated in accordance with the requirements of the MPRDA.</p> <p>9. As confirmed by both the ecologist and wetland specialist even with the additional information that were considered by the specialists, the outcome of the TBIA and Wetland Assessment Report is still a true reflection and does not necessitate significant changes to the DBAR and/or EMPR. Your client will not be prohibited from commenting on the DBAR and EMPr, and we will include all comments and/or objections received from the public, until the public participation process comes to an end, being 12 December 2022.</p> <p>We trust you will find the above in order and that the content hereof addresses your client's concerns."</p>			

ERRATUM NOTIFICATION TO STAKEHOLDERS AND I&AP'S

COMMENTING PERIOD: 11 NOVEMBER – 12 DECEMBER 2022

Due to a *bona fide* error on the earlier public documents, an erratum advertisement (in English and isiZulu) was placed in the Ladysmith Gazette on 11 November 2022. English and isiZulu on-site notices correcting the earlier error were placed on 10 November 2022 at the site entrance, Matiwane Community, the Stolo Phezulu Shop, the turnoff from the N11 onto the Collings Pass Road, as well as the Ladysmith Library. The stakeholders and I&AP's were also notified (11 November 2022) of the error on the earlier documents and the commenting period was extended until 12 December 2022. I&AP's and stakeholders were also invited to comment on the updated TBIA (terrestrial biodiversity impact assessment) and the 2022 Wetland Opinion on/or before 12 December 2022. Upon request, a meeting was held with the ward councillor and community representatives in Ladysmith on 23 November 2022 where the project was discussed.

STAKEHOLDERS			
TITLE, NAME AND SURNAME	AFFILIATION/KEY STAKEHOLDER STATUS	CONTACTED DATE	RESPONSE RECEIVED
Ms SS Ngiba, Me K Grobler Me S Magudulela Mr R Mazibuko	Alfred Duma Local Municipality	11 November 2022	Refer to correspondence with Cllr TP Dlamini
Mr TP Dlamini	Alfred Duma Local Municipality Ward Councillor Ward 23	11 November 2022	15 November 2022
Attendees: ❖ Cllr T.P Dlamini (Ward 23 Councillor); ❖ Mr S Sithole (Community Representative); ❖ Mr J.B Madondo (Speaker of the Mayor);			

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<ul style="list-style-type: none"> ❖ Mr S.C Ngubane (Councillor's Secretary); ❖ Mr W.S.Z Kunene (Community Representative); ❖ Mr T.F Nkomonde (Community Representative); ❖ Mr G Catin (Raubex Construction (Pty) Ltd Representative); and ❖ Ms C Fouche (EAP). <p>Summary of the discussions held with Cllr Dlamini and the community representatives on 23 November 2022:</p> <p>Mr Catin introduced the pending SANRAL N11 construction project to the meeting, as the proposed mine (this application) on the farm Elands Spruit will be developed in support of the N11 project. Following this, Ms Fouche explained the mining permit application and associated EIA process to the meeting.</p> <p>Mr Madondo observed that job creation is of high importance in the municipality and enquired how the proposed projects (N11 upgrade & proposed mine) will benefit the community. It was explained that the most employment and SMME opportunities will originate from the N11 construction project as the contract stipulates that at least 6% of the project value must be spend on local labour. Further to this the CPG target of the project is 30% of the project value. The proposed mining (this application) on the farm Elands Spruit will create ±8 employment opportunities if the Applicant is successful in winning the tender for the N11 construction project and the mine is developed.</p> <p>Mr Madondo suggested to Cllr Dlamini that a suggestion box be placed at the municipality where interested parties can comment and preferably support the proposed project. It was also suggested that the councillor send an email to Greenmined on behalf of the mayor's office in support of the proposed project.</p> <p>The maintenance of Collings Pass Road (during the operational phase of the quarry) was discussed at the meeting, as the community members were concerned that the trucks transporting material may destroy the road. It was explained that Collings Pass Road is governed by the Department of Transport (DoT) and the Applicant will need permission from DoT before maintenance/upgrades can be done on the road. It was agreed that if the mining permit was approved the Applicant will liaise with the DoT regarding maintenance of the road (Collings Pass Road) between the quarry and the N11 for the lifespan of the mine. The community reiterated that the condition of the road may not deteriorate because of the proposed mining activities.</p> <p>The possible placement of road signage along the N11 showing the turnoff to Matiwaneskop was also discussed. It was agreed that the possibility of such signage will be investigated further once the N11 construction project commences.</p>			

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<p>The Mayor joined the meeting and reiterated that the municipality appreciates the projects coming to their area. The attendees also noted their appreciation that they were contacted and informed of the proposed projects (mining application and pending N11 project) as this will enable them to explain the development in the area to their community.</p> <p>The attendees were all provided with a document explaining the proposed mining project that they could use when talking to the community. The mining project was also explained (at the meeting) with the use of A3 layout maps.</p>			
<p>To date no additional comments/response was received from the councillor and/or community.</p>			
Mr TN Ngcobo	Alfred Duma Local Municipality Ward Councillor Ward 24	11 November 2022	No response received during this commenting period
Me P Ndabezitha	AMAFA	11 November 2022	No response received during this commenting period
Mr S Sibande	Department of Agriculture and Rural Development and Land Reform - KZN	11 November 2022	31 January 2023

STAKEHOLDERS			
TITLE, NAME AND SURNAME	AFFILIATION/KEY STAKEHOLDER STATUS	CONTACTED DATE	RESPONSE RECEIVED
<p>Comments received from DARD on 31 January 2023:</p> <p>“1. PURPOSE</p> <p>To provide comments from the KZN Department of Agriculture and Rural Development (DARD): Agricultural Resource Management (ARM) – Land Use Regulatory unit (LURU), in response to the Erratum Notice for the Raubex Construction (Pty) Ltd Mining Permit application (KZN30/5/1/3/2/10817 MP) over the remaining extent of the Farm Elands Spruit No 5523, uThukela District, KZN. This in order to revise the description of the NEMA EIA Regulations, 2014 (as amended) Listing Notice 3 activities.</p> <p>2. BACKGROUND</p> <p>2.1 An erratum notice was submitted to correct the public documents regarding the Raubex Construction (Pty) Ltd mining permit application as per reference 2020/12/4975 submitted over the Remaining Extent of the farm Elands Spruit No 5523, uThukela Magisterial District KZN.</p> <p>2.2 The purpose is to revise the description of the NEMA EIA Regulations, 2014 (as amended) Listing Notice 3 activities namely: GNR 324 Activity 4, the development of a road wider than 4 meters with a reserve less than 13.5 metres. KwaZulu-Natal: viii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; GNR 324 Activity 12, The clearance of an area of 300 square metres or more of indigenous vegetation. d. KwaZulu-Natal: v. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; GNR 324 Activity 18, The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre. d. KwaZulu-Natal: viii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans.</p> <p>3.0 COMMENTS</p> <p>3.1 The above requests are infrastructural development to facilitate movement of mined materials to and from the mining area to the loading zone and out of the mine. Reference is made to the relevant legislative prescript of the Subdivision of Agricultural Land Act (Act 70 of 1970) in this case section 6A(1)(a) for a right of way with a width not exceeding 15 m is applicable for compliance.</p> <p>3.2 Every care must be taken to ensure that land degradation is avoided by every means during construction and after construction through regular maintenance measures at regular intervals.</p> <p>3.3 Please note that the previous mining licence application remains unchanged by this erratum request.</p>			

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4. RECOMMENDATION			
This office does not object to this erratum notice requests for the Raubex Construction (Pty) Ltd Mining Permit application over the remaining extent of the farm Elands Spruit No 5523, uThukela District KZN.”			
The comments submitted by DARD in 2023 were all noted and incorporated into the amended DBAR.			
Me FS Magwaba	Department of Agriculture, Land Reform and Rural Development (National)	11 November 2022	No response received during this commenting period
Mr. D Gwede	Department of Economic Development, Tourism and Environmental Affairs	11 November 2022	No response received during this commenting period
Ms B Msane, Me GY Uyabulelwa Me L Dladla	Department of Human Settlements, Water and Sanitation	11 November 2022	No response received during this commenting period
Me T Kunene	Department of Labour	11 November 2022	No response received during this commenting period
Me J Reddy	Department of Transport	11 November 2022	No response received during this commenting period
Me S Naicker Mr S Ndlovu Me N Mdunyelwa	Eskom Ltd	11 November 2022	11 November 2022

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<p>Me Samantha Naicker from the Land Development section of Eskom requested layout plans and additional project information. Greenmined supplied the requested information on 16 November 2022, upon which the following comments were received from Eskom.</p>			
<p>Summary of the comments received from the Distribution division of Eskom on 17 November 2022:</p> <p>“...Eskom 11-kV Overhead Lines are the only Distribution assets showing to exist on our system....There are also 275-kV Transmission Overhead Lines located within the application areas, please contact Miss Lungile Motsisi, Transmission Division of Eskom for comments....</p> <p>The following Eskom Distribution regulations shall apply.</p> <p>Building Restrictions for a 11-kV Overhead Power Lines:</p> <p>No building or structures may be erected or installed above or below the surface of the ground, neither may any material which might endanger the safety of this power line be placed within 12 (twelve) metres from the centre line of this power line, or either side (overall servitude width 24 metres).</p> <p>The applicant will adhere to all relevant environmental legislation. Any cost incurred by Eskom as a result of non-compliance will be charged to the applicant. Dimensions and specifics will be in accordance to ESKOM standards so as to not obstruct Eskom’s existing infrastructure in any way.</p> <p>Eskom shall not be liable for the death of or injury to any person or for the loss of or damage to any property whether as a result of the encroachment or of the use of the servitude area by the applicant, his/her agent, contractors, employees, successors in title, and assigns.</p> <p>The applicant indemnifies Eskom against loss, claims or damages including claims pertaining to consequential damages by third parties and whether as a result of damages to or interruption of or interference with Eskom’s services or apparatus or otherwise. Eskom will not be held responsible for damage to the applicant’s equipment. The applicant’s attention is drawn to the Electricity Act, 1987, (Act 41 of 1987, as amended in 1994), Section 27(3), which stipulates that the applicant can be fined and/or imprisoned as a result of damage to Eskom’s apparatus.</p>			

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<p>No mechanical equipment, including mechanical excavators or high lifting machinery, shall be used in the vicinity of Eskom's apparatus and/or services, without prior written permission having been granted by Eskom. If such permission is granted the applicant must give at least seven working days prior notice of the commencement of work. This allows time for arrangements to be made for supervision and/or precautionary instructions to be issued. The clearances between Eskom's live electrical equipment and the proposed construction work shall be observed as stipulated by Regulation 15 of the Electrical Machinery Regulations of the Occupational Health and Safety Act 85 of 1993. Equipment shall be regarded electrically live and therefore dangerous at all times.</p> <p>Mining and the use of explosives of any type within 500 metres of Eskom's services shall only occur with Eskom's prior written permission. If such permission is granted the applicant must give at least fourteen working days prior notice of the commencement of blasting. This allows time for arrangements to be made for supervision and/or precautionary instructions to be issued in terms of the blasting process. Refer to the attached application form.</p> <p>Any third party servitudes encroaching on Eskom land shall be registered against Eskom's Notaries deed at the applicant's own cost. If such servitude is brought into being, its existence should be endorsed on the Eskom servitude deed concerned, while the third party's servitude deed must also include the rights of the affected Eskom servitude.</p> <p>A developer taking a new supply from Eskom, an increase of supply or line deviation is required to make an application to Eskom via the Eskom toll free number 0860037566. This application will be processed in terms of Eskom's standard customer connection tariffs, conditions and policies at the developers cost.</p> <p>Customers requiring Substation or Powerlines to be installed for their purposes/supply their development must grant all servitudes (a piece of ground on the property to be developed) to Eskom at no cost.</p> <p>Prior any construction activities, the applicant is required to contact Eskom and detailed Surveyed Plans are to be submitted to this office. This letter outlines the Eskom (Distribution) building restrictions and is by no means an approval for construction works.</p>			

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			<p>Mr Samke Ndlovu submitted the following additional comments from the Distribution division of Eskom on 22 November 2022:</p> <p>“....As per the information on your application, the following are the only Eskom assets showing to exist on our system.</p> <p>❖ Platberg NB33 11kV Line</p> <p>...Eskom has no objection to the proposed application as long as the condtions listed below are adhered to and considerations made for all Eskom’s infrastructure when planning or developing the area.</p> <p>It is very important to note that Eskom’s LV data is not reflected on the drawing supplied. It is advisable you contact Eskom immeditatly, should you phisically detect an yconducteors and/or underground cables on the ground and not reflected on the drawing. Esko’s call centre number is 08600 37566. It is imperative that you make contact with Eskom’s Senior Supervisor, Mr Brad Cooper on 031 782 7903 / 064 902 3003 and email cooperbj@eskom.co.za before consturciton close to Eskom’s infrastructure. Ther should be at least a week (seven days) notice prior to construction. A site agreement form should be signed at the site meeting by all parties concerned.....”</p> <p>Mr Ndlovu listed the same Building Restrictions for a 11-kV Overhead Power Line as included in the previous row.</p>
			<p>On 30 November 2022, Nomzamo Mdunyelwa submitted the following questions from the Transmission division of Eskom that was responded to on 06 December 2022 by Greenmined:</p> <p>1. <i>The application has no blast design – please include</i></p> <p>Seeing that this application is still pending approval at the DMRE, the mine does not yet have a blast design. The Applicant will however submit all appropriate applications and designs to Eskom once the mining permit application was approved and the proposed mining activity may contin ue. No blasting will take place at the mine prior to receipt of the applicable permits/permissions from Eskom.</p>

STAKEHOLDERS			
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<p>2. <i>How high is the stockpile and what measures are in place to ensure that there is dust suppression. It seems like a very large area marked out, we do not want any pollution settling on the powerlines which could cause flashovers.</i></p> <p>If approved the mining permit area will be 4.9 ha in total, and the proposed stockpile area (adjacent to the mining permit area) will be 10.5 ha. None of the application areas require the stockpiling of material underneath or within 45 m of the power line. The maximum height of the stockpiles will be 10 m. The potential dust impact of material stockpiled in the mining permit area on the nearby power line is deemed of low probability as the prevalent wind direction of the region is in a north-western direction for most of the year. This means that the wind will carry dust that may be generated at the mining area away from the power line. Dust will daily be mitigated at the stockpile area through the following means that were included in the EMPR to be implemented during the operational phase of the project:</p> <ul style="list-style-type: none"> • The liberation of dust into the surrounding environment must be effectively controlled using, inter alia, straw, water spraying and/or environmentally friendly dust-allaying agents that contains no PCB's (e.g. DAS products). • The site manager must ensure continuous assessment of all dust suppression equipment to confirm its effectiveness in addressing dust suppression. • Speed on the haul roads must be limited to 20 km/h and 40 km/h on the access road to prevent the generation of excess dust. • Areas devoid of vegetation, which could act as a dust source, must be minimized and vegetation removal may only be done immediately prior to mining. • The crusher plant must have operational water sprayers to alleviate dust generation from the conveyor belts. • Fines, blowing from the drop end of the crusher plant, can be minimized by attaching strips of used conveyor belts to the conveyor's end. • Compacted dust must weekly be removed from the crusher plant to eliminate the dust source. • Loads must be flattened to prevent spillage during transportation on public roads. • Weather conditions must be taken into consideration upon commencement of daily operations. Limiting operations during very windy periods would reduce airborne dust and resulting impacts. • All dust generating activities shall comply with the National Dust Control Regulations, GN No R827 promulgated in terms of NEM:AQA (Act 39 of 2004) and ASTM D1739 (SANS 1137:2012). • Best practice measures shall be implemented during the stripping of topsoil, excavation, and transporting of material from site to minimize potential dust impacts. <p>If required the monitoring of fallout dust levels could also be implemented at the stockpiling area to ensure adequate dust levels that complies with Eskom standards to prevent flashovers.</p>			

STAKEHOLDERS			
TITLE, NAME AND SURNAME	AFFILIATION/KEY STAKEHOLDER STATUS	CONTACTED DATE	RESPONSE RECEIVED
			<p><i>3. Will our grid persons have access to do maintenance?</i></p> <p>The grid personnel will at all times have access to the power line and servitude to do maintenance.</p> <p><i>4. Is the applicant planning to use any large machinery in our servitude or near the powerline? If so, they must state it so that we can check clearances.</i></p> <p>The operation of the mining area does not require any large machinery to be moved underneath the powerline. The machinery will enter the site from the Collings Pass Road onto the farm road and then enter the mining permit area without crossing the power line.</p> <p>Should the stockpile area be approved and established, the mobile crusher plant will be the highest machine that would need to cross below the power line (once during site establishment). The crusher will also have to be removed at the end of the project. The height of the crusher plant (in transit) is ± 4.5 m. During the operational phase only tipper trucks and a front end loader will need to traverse the power line. The clearances between Eskom's live electrical equipment and any project related machinery shall be observed as stipulated by Regulation 15 of the Electrical Machinery Regulations of the Occupational Health and Safety Act 85 of 1993. Equipment shall be regarded electrically live and therefore dangerous at all times. No large equipment will be moved underneath the power line without written permission from Eskom. It must also be mentioned that the adjacent 11 kV power line will dictate the maximum height of machinery that can pass underneath the power line infrastructure, once the machinery are cleared to pass underneath the 11 kV power line, it will easily comply with the ground clearance requirements for a 275 kV power line.</p> <p><i>5. I'm also not sure if this is shallow mining or deep mining, nevertheless no mining under the powerline is allowed. Around the towers we should ensure a 20m radius.</i></p> <p>All mining will be confined to the actual footprint of the application (4.9 ha) that does not extend into, or nearer than ± 45 m to the power line. There will be no excavations nearer than 20 m to the power line towers.</p>
			<p>On 07 December 2022 the Transmission division of Eskom submitted the following principle approval subject to the comments of the Engineers being addressed, a blasting design and revision of the stockpile area:</p>

STAKEHOLDERS			
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<p>“Principle Approval:</p> <p>....Eskom Transmission’s (Tx) powerlines will be affected by this project:</p> <ul style="list-style-type: none"> ❖ Eskom Transmission (Tx’s) Ingagane-Bloukrans 1 275kV powerline ❖ Eskom Transmission (Tx’s) Ingagane-Danskraal 2 275kV powerline <p>.... Further to the above Eskom Tx in principle will raise no objection to the proposed mining permit application in close proximity to the mentioned powerlines provided Eskom Tx’s rights and services are acknowledged and respected at all times. The following terms and conditions pertaining to the proposed mining permit must also be borne in mind:</p> <ol style="list-style-type: none"> 1. Eskom Tx’s rights and services must be acknowledged and respected at all times. 2. Eskom Tx shall at all times retain unobstructed access to and egress from its servitudes. 3. Eskom Tx’s consent does not relieve the applicant from obtaining the necessary statutory, landowner or municipal approvals. 4. The applicant will adhere to all relevant environmental legislation. Any cost incurred by Eskom Tx as a result of non-compliance will be charged to the applicant. 5. All work within Eskom’s servitude areas shall comply with the relevant Eskom earthing standards in force at the time. 6. No construction or excavation work shall be executed within 23.5 metres from any Eskom powerline structure, and/or within 23.5 metres from any stay wire. 7. If Eskom Tx has to incur any expenditure in order to comply with statutory clearances or other regulations as a result of the applicant’s activities or because of the presence of his equipment or installation within the servitude restriction area, the applicant shall pay such costs to Eskom Tx on demand. Detailed designs of the proposed mining operations must be referred to Eskom Tx. In these designs Raubex Construction must cater for design specific issues such as acute angle crossings, separation distances and clearances between Eskom Tx’s 275kV power lines and the proposed mining area. 8. The use of explosives of any type within 500 metres of Eskom Tx’s services, shall only occur with Eskom Tx’s previous written permission. If such permission is granted the applicant must give at least fourteen working days prior notice of the commencement of blasting. This allows time for arrangements to be made for supervision and/or precautionary instructions to be issued in terms of the blasting process. It is advisable to make application separately in this regard. 9. Changes in ground level may not infringe statutory ground to conductor clearances or statutory visibility clearances. After any changes in ground level, the surface shall be rehabilitated and stabilised so as to prevent erosion. The measures taken shall be to Eskom Tx’s requirements. 			

STAKEHOLDERS			
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<p>10. Eskom Tx shall not be liable for the death of or injury to any person or for the loss of or damage to any property whether as a result of the encroachment or of the use of the servitude area by the applicant, his/her agent, contractors, employees, successors in title and assignee. The applicant indemnifies Eskom Tx against loss, claims or damages including claims pertaining to consequential damages by third parties and whether as a result of damage to or interruption of or interference with Eskom Tx's services or apparatus or otherwise. Eskom Tx will not be held responsible for damage to the applicant's equipment.</p> <p>11. No mechanical equipment, including mechanical excavators or high lifting machinery, shall be used in the vicinity of Eskom Tx's apparatus and/or services, without prior written permission having been granted by Eskom Tx. If such permission is granted the applicant must give at least seven working days' notice prior to the commencement of work. This allows time for arrangements to be made for supervision and/or precautionary instructions to be issued by the Lines- and Servitudes Manager.</p> <p>12. Eskom Tx's rights and duties in the servitude shall be accepted as having prior right at all times and shall not be obstructed or interfered with. Note: Where an electrical outage is required, at least fourteen work days are required to arrange it.</p> <p>13. Under no circumstances shall rubble, earth or other material be dumped within the servitude restriction area. The applicant shall maintain the area concerned to Eskom Tx's satisfaction. The applicant shall be liable to Eskom Tx for the cost of any remedial action which has to be carried out by Eskom Tx.</p> <p>14. The clearances between Eskom Tx's live electrical equipment and the proposed construction work shall be observed as stipulated by the Regulation 19 of Electrical Machinery Regulations 2011 (with reference to SANS10280-1) of the Occupational Health and Safety Act, 1993 (Act 85 of 1993).</p> <p>15. Equipment shall be regarded electrically live and therefore dangerous at all times.</p> <p>16. In spite of the restrictions stipulated by Regulation 19 of Electrical Machinery Regulations 2011 (with reference to SANS10280-1) of the Occupational Health and Safety Act, 1993 (Act 85 of 1993)., as an additional safety precaution, Eskom Tx will not approve the erection of houses, or structures occupied or frequented by human beings, under the powerlines or within the servitude restriction area.</p> <p>17. Eskom Tx may stipulate any additional requirements to eliminate any possible exposure to Customers or Public to coming into contact or be exposed to any dangers of Eskom Tx plant.</p> <p>18. It is required of the applicant to familiarise himself with all safety hazards related to Electrical plant.</p> <p>The final design (blasting and stockpiles) of your proposed mining area should be referred to this office for final approval. This will be referred to the applicable Eskom Tx Engineer for perusal and final approval. It is noted that your application was also forwarded to Eskom Distribution KwaZulu Natal OU (The Land Development Manager) for comments on the Distribution Division services affected and direct reply to you."</p>			

STAKEHOLDERS			
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<p>Engineer's comments on the response previously (06 December 2022) sent to Eskom:</p> <p>1. <i>Blast design:</i> Engineer's Comment – <i>We need this to be finalized and submitted to approve. We will have to wait for this. Please submit upon receipt.</i></p> <p>2. <i>Height of the stockpiles and dust suppression measures:</i> Engineer's Comment - <i>I'm still not comfortable with the 45m distance being at a height of 10m. This stockpile is therefore in an adjacent servitude to the powerline (since every 400kV powerline servitude is about 55m and 275kV about 40m). Our line conductors blow out quite significantly almost to the end of the servitude which in other words could come swing very close to the stockpile. This really needs to be revisited as 45m is certainly too close and will not be acceptable. I would be comfortable with atleast 200m away or more will be great. Primarily for the reasons attributed to dust, considering the height of the stockpile, and the blow out of ur conductors. * Very important to revisit this point*</i></p> <p><i>How often will this (assessment of dust suppression equipment) be done? And does this comply with dust control standards?</i></p> <p><i>Who will ensure this (compacted dust removed weekly from crusher plant)?</i></p> <p><i>Yes this monitoring (fallout dust monitoring) will assist to ensure flashovers do not occur, or even the degradation of our lines due to the increased presence of dust/pollution.</i></p> <p>3. <i>Access to of grid persons:</i> Engineer's Comment: <i>Great.</i></p> <p>4. <i>Use of large machinery in power line servitude:</i> Engineer's Comment: <i>Logically, it will be fine, however for audit purposes if you are crossing a transmission line, it can not be implied that if distribution approve then its automatic that transmission will approve. The committee's are different and carry responsibility and accountability for the traversing of their own infrastructure. It therefore must be brought to transmission as well.</i></p>			

STAKEHOLDERS			
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<p>5. <i>Mining under the power line:</i> Engineer's Comment: <i>OK so no mining within 20m radius around the tower is good.</i></p>			
<p>Greenmined acknowledged receipt of the principle approval on 08 December 2022 and responded as follows on the Engineer's comments:</p> <p>1. <i>Blast design:</i> Greenmined's Response: The Applicant takes note of this and commits to submitting the blasting design as soon as it is available. No mining will take place prior to approval of the blasting design by Eskom.</p> <p>2. <i>Height of the stockpiles and dust suppression measures:</i> Greenmined's Response: The comment of the Engineer was noted. To accommodate this, the Applicant concedes to keep all stockpiles at least 200 m away from the power line. See attached a schematic representation of the proposed areas where the stockpiles will be placed (orange shading). (Refer to Figure 4 in the FBAR).</p> <p><i>How often will this be done? And does this comply with dust control standards?</i> Greenmined's Response: Site management will daily monitor the dust suppression equipment, and a water truck will daily moisten the road and denuded areas around the sites. The fallout dust levels of the site will be evaluated in terms of the fall-out standards of the National Dust Control Regulations, 2013. Should Eskom have additional standards in this regard, please do not hesitate to provide those to us.</p> <p><i>Who will ensure this?</i> Greenmined's Response: The on-site ECO (environmental control officer) will be responsible for the day to day compliance of the site with the conditions of the EMPR (environmental management programme). The site will further be audited by an external Environmental Assessment Practitioner that will annually report on the compliance of the site to the DMRE and DEDTEA.</p> <p><i>Yes this monitoring will assist to ensure flashovers do not occur, or even the degradation of our lines due to the increased presence of dust/pollution.</i> Greenmined's Response: Comment noted. Fallout-dust monitoring will be added as an additional condition/requirement to the EMPR.</p>			

STAKEHOLDERS			
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3. <i>Use of large machinery in power line servitude:</i> <u>Greenmined's Response:</u> Comment noted, applications will be submitted to both Transmission and Distribution.			
Mr D Wieners	Ezemvelo/KZN Wildlife	11 November 2022	No response received during this commenting period
Me L Sewnarain	SANRAL – Eastern Region	11 November 2022	No response received during this commenting period
SAHRIS website	South African Heritage Resource Agency	11 November 2022	No response received during this commenting period
Mr MB Mnguni	uThukela District Municipality	11 November 2022	No response received during this commenting period

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

TITLE, NAME AND SURNAME	AFFILIATION/KEY STAKEHOLDER STATUS	CONTACTED DATE	RESPONSE RECEIVED
Mr FP Oosthuizen	Landowner of: <ul style="list-style-type: none"> • Remaining Extent of the farm Elands Spruit No 5523; • Portion 4 of the farm Elands Laagte No 1239; and • Portion 20 of the farm Elands Laagte No 1239. 	11 November 2022	No response received during this commenting period
Mr IF Mitchell-Innes	Contact person for Mr WS Mitchell-Innes and Me H Mitchell-Innes who respectively owns: <ul style="list-style-type: none"> • Portion 6 of the farm Roode Poort No 1045; and • Elands Spruit No 16154. 	11 November 2022	No response received during this commenting period
Cllr TN Ngcobo & Cllr TP Dlamini	Community of Matiwane	11 November 2022	Refer to correspondence with Cllr TP Dlamini
Me Z Khumalo	Surrounding neighbour (South)	11 November 2022	No response received during this commenting period
Rotimode (Pty) Ltd	Prospecting right holder on the property.	11 November 2022	No response received during this commenting period
Bukhali Environmental Resource Consulting on behalf of Afrimat Aggregates (Pty) Ltd (Bukhali)	Afrimat Aggregates (Pty) Ltd: Ladysmith Quarry	11 November 2022	13 December 2022

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

TITLE, NAME AND SURNAME	AFFILIATION/KEY STAKEHOLDER STATUS	CONTACTED DATE	RESPONSE RECEIVED
<p>Supplement objection received from Bukhali on behalf of Afrimat Aggregates (Pty) Ltd on 13 December 2022:</p> <p>“...1. This supplementation to the objection raised by our client Afrimat Aggregates KZN (Pty) Ltd (‘Afrimat’) is based on your reply email of 11 November 2022 wherein you have provided the following:</p> <ol style="list-style-type: none">1.1. Your Response Letter – KZN 30/5/1/3/2/10817 MP dated 11 November 20221.2. Wetland opinion by Mr Gerhard Botha dated 1 November 20221.3. Terrestrial Biodiversity Impact Assessment (“TBIA”) by MORA Ecological Services (Pty) Ltd dated November 2022. <p>2. Firstly, we will deal with the particulars of your response to our initial objection; secondly, we will deal with the particulars of the Wetland opinion and the TBIA respectively, whereafter the objection will be supplemented by additional substantive merits against mining taking place on-site without further detailed information being provided as to the cumulative impacts of site activities on the receiving environment.</p> <p>3. Our client reserves the right to appeal any decision taken by the Competent Authority (“CA”) in granting an Environmental Authorisation (“EA”) and resultant Mining Permit (“MP”) in the absence of sufficiently detailed and scientifically derived information pertaining to the negative environmental impacts on site.</p> <p>Your reply to the objection</p> <p>4. It is not our intention to respond to your reply letter paragraph by paragraph and our failure to do so should not be construed as an admission of the correctness of any submissions made by you in said letter.</p> <p>5. In response to your paragraph 5.1: Our comment was based on your own version as it appeared in the advertisement which explicitly indicated “...proposed mining footprint will be 4.9 ha and will entail the expansion of the existing quarry on the property.” Your clarification on this point is noted.</p> <p>6. In response to your paragraph(s) 5.3 – 5.6: Please see attached Annexure A.</p> <p>7. In response to your paragraph 6: We are aware that the DMRE are not able to make a determination at this stage, however, the objection forms part of the public record of this application, and the ground for objection is supplemented by this supplementation.</p> <p>8. In response to your paragraph 6.1 and 6.2: Please see attached Annexure A.</p> ”			

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

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			<p>9. In response to your paragraph 6.5 – 6.15: Your responses are noted; however, some further related issues will be discussed in our response to the amended TBIA below. Please see attached Annexure A.</p> <p>10. In response to your paragraphs 6.6 – 6.20: We will reply to these paragraphs as part of the response to the comments from the wetland specialist below.</p> <p>11. In response to your entire paragraph 6.4: We will reply to these paragraphs as part of the response to the amended TBIA below. Please see attached Annexure A.</p> <p>Response to the amended TBIA</p> <p>12. We have obtained an independent opinion from Rautenbach Biodiversity Consulting ('Rautenbach Report') on the substantive elements of the amended TBIA attached as ('Annexure A') to this supplementation objection.</p> <p>13. The CA cannot decide on the application in its current form as there are too many gaps in the TBIA that were not sufficiently addressed. We request that the concerns raised by the Rautenbach Report be adequately addressed by the EAP and Mora Ecological Services, respectively. We maintain our position that this TBIA does not conform to the minimum reporting standards for the CA to consider this report in its current form as part of your application.</p> <p>14. The Revised National List of Ecosystems that are Threatened and in Need of Protection, 2022 (GN R No. 2747 published in Government Gazette No. 47526), wherein Northern KwaZulu-Natal Moist Grasslands' threat status (2021) is declared as "Vulnerable". The assessment summary for this grassland type states the following: "Northern KwaZulu-Natal Moist Grassland is narrowly distributed with high rates of habitat loss in the past 28 years (1990-2018), placing the ecosystem type at risk of collapse."</p> <p>15. This report, based on a single-line transect, is wholly inadequate considering the Vulnerable nature of the vegetation type and the need to investigate further the impacts of the mining operation as a contributing factor towards further habitat loss of this vegetation type.</p> <p>16. It is submitted that this report, in its current form, is fatally flawed and that this TBIA should be re-commissioned to fulfil all the legislated requirements for preparing and drafting these types of assessments.</p> <p>Wetland Report (2017) and Wetland Opinion (2022)</p>

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

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<p>17. Your Final Basic Assessment Report ('FBAR') for the proposed stockpiling on a portion of the remaining Extent of the Farm Elands Spruit No. 5523 registered under Reference Number: DC23/0005/2022: KZN/EIA/0001820/2022 dated November 2022 refers.</p> <p>18. Again, it is not our intention to respond to every paragraph by paragraph of the Wetland/Aquatic Comments (2022), and our failure to do so should not be construed as an admission of the correctness of the information presented therein.</p> <p>19. Your comment in paragraph 6.2.1 that there is "no need for a new Freshwater Ecological Assessment..." is respectfully rejected. We submit that the DMRE cannot make an informed decision on the extent of the proposed mining operation's impacts, nor the other cumulative impacts that the stockpiling area located towards the east of the mining operation will have on the freshwater ecology (wetland).</p> <p>20. Under the limitations section of the wetland report (2017), the wetland specialist stated that a "single survey limited the amount of biota identified at the site"; and "While every care is taken to ensure that the data presented are qualitatively adequate, inevitably conditions are never such that that is possible"; and "This specific study area is affected by a variety of disturbances (historic and active) which restricts the use of available wetland indicators such as hydrophytic vegetation or soil indicators. Hence, a wide range of available indicators including historic aerial photographs are considered to help determine boundaries as accurately as possible."</p> <p>21. In Figure 18 of the Wetland Report (2017), the author provides a Google map "indication the boundaries and wetland area of HGM 2 (Channelled Valley Bottom Wetland)", however, it is assumed that this should refer to the identified Hillslope Seepage Wetland instead. Please see image below from their report.</p>			

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

TITLE, NAME AND SURNAME	AFFILIATION/KEY STAKEHOLDER STATUS	CONTACTED DATE	RESPONSE RECEIVED
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22. This HGM is described by the author as “This HGM is not an isolated system be is connected to the Channelled Valley Bottom wetland, however outflow is not contained within a channel (Without Channelled Outflow) but occur as diffuse surface flow. The entire HGM is Never / Rarely Inundated with surface water. The bulk of the HGM is Intermittently / Temporarily Inundated with only a small portion being Seasonally Inundated.”

23. The wetland specialist further indicates that according to Ollis et al (2013), one of the dominating zones found within this wetland is “Never / rarely inundate zone: Covered by water for less than a few days at a time (up to one week at most), if ever.” The veracity of this statement is then confirmed by the wetland specialist in that “This is applicable for the entire HGM.” If this is applicable for the entire HGM, how did the wetland specialist determine whether water covered this area for less than a few days, if only a single survey was undertaken by him during 02 January 2017?

24. The wetland specialist determines that the bulk of the study area comprises a “temporary (outer) zone of a wetland, according to the terminology used in the DWAF (2005) wetland delineation manual.” We have included (below) two (2) Google Earth images of January 2017 and June 2021 respectively, clearly indicating saturated zones far exceeding the boundaries of their Figure 18 presented as the Hillslope Seepage wetland.

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

TITLE, NAME AND SURNAME

AFFILIATION/KEY STAKEHOLDER STATUS

**CONTACTED
DATE**

RESPONSE RECEIVED



LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

TITLE, NAME AND SURNAME	AFFILIATION/KEY STAKEHOLDER STATUS	CONTACTED DATE	RESPONSE RECEIVED
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25. On p48 of the Wetland Report (2017), the author indicates that the “hillslope seepage is not as much affected by the greater catchment area of the delineated wetland, but rather by the more immediate surroundings especially the dolerite koppie’s south facing midslope and crest as well as in situ impacts. Hydrological inputs have been slightly affected by the presence of the quarry (probably resulted in a slight/unnoticeable decrease).

26. Considering the above, the wetland report (2017) is silent on the location (GPS coordinates) of the auguring positions as it relates to the wetland soils of the study area, specifically concerning the wetland boundaries of the identified hillslope seepage wetland. Please kindly provide us with these auguring positions to determine the extent of this part of the assessment.

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

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<p>27. It is common cause that blasting activities will cause a direct increase in the bioavailability of salts resulting from the blasting of the earth's crust material which poses a risk of increasing salt loading in the receiving environment. Inevitably, this blasting residue and the build-up of nitrates in the water accumulating in the quarry must be investigated as part of the direct impacts this will have on the Hillslope Seepage wetland with the commencement of site operations. The author did not identify and assess the possible effects on the receiving wetland systems.</p> <p>28. To precisely identify the impacts of blasting and mining activities on the wetland systems, a hydropedology assessment must, as a minimum, supplement the application for an environmental authorisation. Being cognisant of not oversimplifying the aim of a hydropedological evaluation, such a study aims to explain how pedology, groundwater, surface water and wetlands interact to conceptualise the hydrological processes spatially. To protect these wetland systems from degradation, a conceptual understanding of the hydropedological conditions, the interaction between the surface and groundwater systems, and the impacts of mining activities on sensitive receptors such as rivers, wetlands and groundwater is critical.</p> <p>29. We submit, considering the presence of this hillslope seepage wetland so close to blasting activities taking place, that the applicant commission a Hydropedological Assessment to, among other things, identify the dominant hillslopes of the quarry site, determine the hydropedological soil types of the quarry site and conceptualize the hillslope hydropedological responses, and assess the significance of the potential impacts on sensitive receptors arising from the site activities.</p> <p>30. On p83 of the wetland report (2017), the author states that the “proposed footprint area for the quarry is located almost more than 170m from the outer boundary of the Hillslope Seepage” however, according to to point 2.3.1 of the Wetland/Aquatic comments (2022), the “nearest aquatic/wetland feature is a seepage wetland located approximately 156 m to the south of the project site (outside of the development footprint).” This supports our claim and our insistence that an updated and revised Freshwater Ecological Assessment, including a more detailed site assessment of the Hillslope Seepage wetland, should be commissioned, as, on your own version, there are discrepancies as to the relevant distances of this wetland to the proposed site activities.</p> <p>Cumulative impacts</p> <p>31. The wetland specialist should have addressed cumulative impacts in the original wetland report (2017). However, the wetland specialist briefly addressed these impacts on p29 of the Wetland/Aquatic comments (2022). The author refers to the assessment of cumulative impacts concerning “mining projects in an approximate 30km radius of the proposed aggregate mining”.</p> <p>32. The Impact Nature of the cumulative impacts addressed on p29 of the Wetland/Aquatic comments (2022), includes the “Transformation of intact freshwater resource habitat could potentially compromise ecological processes as well as ecological functioning of important habitats and would contribute</p>			

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

TITLE, NAME AND SURNAME	AFFILIATION/KEY STAKEHOLDER STATUS	CONTACTED DATE	RESPONSE RECEIVED
<p>to habitat fragmentation and potential disruption of habitat connectivity and furthermore impair their ability to respond to environmental fluctuations. This is especially of relevance for larger watercourses and wetlands serving as important groundwater recharge and floodwater attenuation zones, important microhabitats for various organisms and important corridor zones for faunal movement.”</p> <p>33. The wetland specialist failed to consider the cumulative impacts of the proposed mining operation comparatively concerning the proposed stockpile (crushing and screening) area approximately 200 m away from each other. It is further evident that this additional stockpiling area of approximately 10.5 ha will include “rock crushing” activities and will greatly exacerbate noise and dust impacts on the identified freshwater ecology.</p> <p>34. On p29 of the Wetland/Aquatic comments (2022), the author determines that the “Overall impact of the proposed project considered in isolation” has a significance rating of Low. In contrast, the cumulative impact on other projects within the area is Moderate. We submit that the wetland assessment report failed to address identified cumulative impacts sufficiently, especially considering that the specialist was aware of the additional stockpiling area forming part of their assessment. This leads to a misrepresentation of crucial facts about impacts on the wetlands.</p> <p>35. As part of the key findings of your Draft Basic Assessment Report (‘DBAR’) with Reference Number: KZN 30/5/1/3/2/10817 MP, you indicate that “Although the proposed activity will have a cumulative impact on the ambient noise levels, the development will not take place in a pristine environment”, failing to recognise and consider the overall setting of the proposed development concerning CBAs and identified wetlands.</p> <p>36. In your DBAR, you briefly describe cumulative impacts on “broad-scale ecological processes” yet fail to identify and describe the cumulative impacts of the mining operation and the related crushing, screening and stockpile area on the identified wetlands.</p> <p>Crushing and screening activities at the proposed additional site as part of the same mining operations</p> <p>37. Your DBAR as part of the MP application and the FBAR for a separate EA on the screening, crushing and stockpiling operation approximately 200 m from each other has reference.</p> <p>38. In relation to “mining operation”, DALE, SOUTH AFRICAN MINERAL AND PETROLEUM LAW ISSUE 24 at paragraph 42.8, Dale adds the following:</p> <p>38.1. ‘As was held in Commissioner of Taxes vs Nyasaland Quarries and Mining Co Limited 24 SATC 579 at 583, in the context of fiscal legislation, the intention of the legislator in enacting the definitions of mine and mining operations is to give those expressions an extended meaning which would cover the processing by the mining company of the mineral into its pure form.</p>			

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

TITLE, NAME AND SURNAME	AFFILIATION/KEY STAKEHOLDER STATUS	CONTACTED DATE	RESPONSE RECEIVED
<p>38.2. ...On an analysis of the phrase “including any operation or activity incidental thereto” in the definition of mine as a verb it appears that any such operations or activities which are directly or indirectly incidental thereto will be included, and then by reference to the definition of mining operations, additionally to the direct and indirect operations and activities covered by the definition of mine as a verb will be matters.</p> <p>38.3. At 45.2 Dale adds: ‘As pointed out in the commentary on the definition of mine as a verb in paragraph 42.8 above, that definition also expressly includes any operation or activity incidental thereto, so that although the intention of the legislature may have been to attribute a broader meaning to the term mining operation than to the term mine, in fact the distinction is difficult to discern, particularly since the definition of mining operation restricts such matters to those “directly” incidental thereto. As there submitted, the correct interpretation is probably that mining includes any operation or activity incidental thereto and additionally the term “mining operation” includes matters directly incidental to such incidental operations or activities. Both terms would, it is submitted, include prospecting in connection with mining as also processing of the mineral or metal into its pure form, but neither term would include use of the mineral in manufacturing process.’</p> <p>38.4. In <i>TERRA BRICKS AND ANOTHER V REGIONAL MANAGER, LIMPOPO REGION, DEPARTMENT OF MINERALS AND ENERGY AND OTHERS</i>: Case Number 5246/05 (TPD) delivered on 12 April 2007 Fourie AJ stated at page 12:</p> <p>38.4.1. ‘The meaning of the definition is clearly not the whole of the mining area. Only if part of the mining area or buildings etc. are used or intended to be used in connection with searching, winning, exploiting or processing of the mineral, do they form part of the mine. I am of the view that this phrase qualifies both mining area and the buildings situated in or on the mining area. On the basis set out above, I am of the view that the brick making activities are not activities aimed at searching or winning a mineral or exploiting a mineral deposit. The clay is searched for, where and exploited at the clay quarry.</p> <p>38.4.2. The next question is whether the activities at the brick factory are not possibly connected with “processing” of a mineral processing. The word “process” is defined in the Minerals Act to mean “in relation to any mineral the recovery, extracting, concentrating, refining, calcining, classifying, crushing, screening, washing, reduction, smelting or gasification thereof.</p> <p>39. On p18 of your FBAR under Project Proposal you state that: “In addition to the mining of the quarry (to be approved by DMRE), the Applicant also intends to establish an area for stockpiling and crushing (when needed) of the material that is mined at the quarry, on 10.5 hectares of the abovementioned property.”</p> <p>40. On p22 of the FBAR you describe the operational phase of the activity as follows: “The Applicant will transport the material from the quarry into the stockpile area. The rock will then be delivered to the crushing and screening plant where it will be reduced to various sized gravels. The screened material will be delivered to various size category stockpiles. Transportation of the final product will be from the stockpile area to the end point by means of trucks.”</p>			

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

TITLE, NAME AND SURNAME	AFFILIATION/KEY STAKEHOLDER STATUS	CONTACTED DATE	RESPONSE RECEIVED
<p>41. Based on the aforementioned, it is our submission that the inclusion of “crushing and screening” as an activity at the proposed stockpile area, somewhat 200 m apart from each other, is an operation and activity directly linked and incidental to your proposed mining operation.</p> <p>42. It is submitted that the applicant should have accommodated your application for the additional crushing and screening operation at the proposed stockpiling area within the MP footprint area. By adding a separate crushing and screening activity incidental to the mining operation, you have increased the footprint of the mining permit application beyond the legislated footprint of 5 ha.</p> <p>43. The applicant reserves their right to obtain further legal advice on this matter, and retain the right to appeal the granting of the permit and its antecedent environmental processes undertaken as part of the administrative authorisation process.</p> <p>Conclusion on supplementation objection and relief sought.</p> <p>44. We request that the Department of Mineral Resources and Energy (DMRE) refuse the current application for an EA, on the following grounds: TBIA is fatally flawed</p> <p>44.1. The amended TBIA lacks sufficient minimum required information, with significant omissions, unsubstantiated and contradicting statements, and does not provide adequate information to the relevant authorities to make an informed decision. Therefore, it is recommended that the entire study (desktop as well as field surveys) be repeated and the report as a whole revised to comply with national and provincial requirements and guidelines.</p> <p>Wetland Report (2017) and Wetland/Aquatic Comments (2022) lacks proper impact identification and assessment</p> <p>44.2. It is evident that the Wetland Report (2017) and subsequent Wetland/Aquatic Comments (2022) addressed some of the aspects identified during our first objection, however, it is our opinion that this assessment is incomplete for the following reasons:</p> <p>44.2.1. The wetland specialist failed to consider the impacts related to blasting activities in the vicinity of the identified wetland systems;</p> <p>44.2.2. The wetland specialist failed to substantively address cumulative impacts on the identified wetlands of the proposed mining operation and the proposed additional crushing and screening area;</p>			

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

TITLE, NAME AND SURNAME	AFFILIATION/KEY STAKEHOLDER STATUS	CONTACTED DATE	RESPONSE RECEIVED
<p>44.2.3. It is clear from the Google Earth images that there are distinct drainage areas falling outside of the assessed and delineated area, and in the absence of detailed wetland and soil transects of the identified Hillslope Seepage Wetland, raise suspicion as to the exact nature and size of this wetland; and</p> <p>44.2.4. There are discrepancies between the relevant distance of the Hillslope Seepage Wetland and the proposed mining operations.</p> <p>Hydropedological Assessment as a minimum requirement</p> <p>44.3. It is submitted that the applicant should conduct the necessary Hydropedological Assessment to explain how pedology, groundwater, surface water and wetlands interact to conceptualise the hydrological processes spatially. To protect these wetland systems from degradation, a conceptual understanding of the hydropedological conditions, the interaction between the surface and groundwater systems, and the impacts of mining activities on sensitive receptors such as rivers, wetlands and groundwater is critical.</p> <p>Mining operations</p> <p>44.4. It is submitted that your application for the additional crushing and screening operation at the stockpiling area should have been accommodated within the MP footprint area, and by the addition of a separate crushing and screening activity you have increased the footprint of the mining permit application beyond the legislated footprint of 5 ha.</p> <p>Conclusion</p> <p>45. Based on the foregoing, we submit that we have made a compelling case for the Competent Authority (CA) to request further detailed and updated information to supplement the current application, and that the application in its current form is not sufficiently detailed to address the gaps in knowledge on the receiving environment of the proposed mining operation.”</p> <p>Refer to Appendix F2 – Proof of Public Participation Part 3 for a copy of the Comments on the TBIA as obtained from Rautenbach Biodiversity Consulting.</p>			

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES

TITLE, NAME AND SURNAME	AFFILIATION/KEY STAKEHOLDER STATUS	CONTACTED DATE	RESPONSE RECEIVED
<p>The following response will be sent to Bukhali in response to the supplement objection received on 13 December 2022. Bukhali will also be invited to comment on the amended DBAR:</p> <p>“We take note of the content of your objections and will respond to the relevant sections as required under the circumstances. However, failure to address all allegations and objections should not be construed as an admission thereof, but rather denial thereof.</p> <p>We take note of the content of your paragraphs 1 to 11 under headings <i>“Introduction”</i> and <i>“Your reply to the objection”</i>.</p> <p><u>TBIA</u></p> <p>With regards to your paragraphs 12 to 16 (TBIA) and more specifically your request that the EAP and Mora Ecological Services adequately addresses the concerns raised in the Rautenbach Report, our client have obtained an additional TBIA report, which was conducted by Eco-Pulse Environmental Consulting Services during February 2023. Attached hereto as <u>Annexure A</u> said report.</p> <p>It is important to note that there are no significant environmental deviations between the latest report and the previous report by Mora Ecological Services. We trust that you and your client are now satisfied with the content of the latest report.</p> <p><u>Wetland Report (2017) and Wetland Opinion (2022)</u></p> <p>Your paragraphs 17 to 30 refer.</p> <p>Although the previous Wetland Assessment conducted by Eco-Care Consultancy (Pty) Ltd during February 2017 sufficiently addressed potential impacts, our client proceeded with the commissioning of Eco-Pulse Environmental Consulting Services to conduct a new Wetland Assessment Report. Attached hereto as <u>Annexure B</u> said report dated 13 February 2023. Once again it is important to note that no significant deviations were identified between the two assessments.</p> <p>From the content of the reports it is clear that both wetland specialists support the proposed mining operation in relation to the identified HGM units. Furthermore, the proposed mining operation and ancillary water use has already been authorized by the Department of Water and Sanitation (DWS) in terms of the National Water Act, 1998. Attached hereto as <u>Annexure C</u> general authorization granted on 30 January 2023.</p> <p>In terms of your requested Hydrogeology Study, the potential impacts were identified as Low Significance, which study was also not required by the DWS, therefore this study would have been superfluous under the circumstances. Additionally, the potential impacts are sufficiently addressed in the studies conducted.</p>			

LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES			
TITLE, NAME AND SURNAME	AFFILIATION/KEY STAKEHOLDER STATUS	CONTACTED DATE	RESPONSE RECEIVED
<p><u>Cumulative Impacts</u></p> <p>Your paragraphs 31 to 36 refer.</p> <p>Although cumulative impacts were previously considered as part of the TBIA and Wetland reports, said impacts were again assessed during the 2023 TBIA and Wetland Assessment. Therefore, please refer to Annexures A and B in terms of the cumulative impacts.</p> <p><u>Crushing and screening activities at the proposed additional site as part of the same mining operations</u></p> <p>Your paragraphs 37 to 43 refer.</p> <p>Please note that the stockpiling area has already been approved by the competent authority on 19 January 2023. Attached hereto as <u>Annexure D</u> granted Environmental Authorization (EA), which EA was already provided to your client as part of the public participation process thereof.</p> <p><u>Conclusion on supplementation objection and relief sought with Conclusion</u></p> <p>Your paragraph 44 and 45 refers.</p> <p>Considering our client's co-operation in the commissioning of additional Terrestrial Biodiversity and Wetland Assessments, which assessments do not significantly differ from the previous studies, the DMRE now has sufficient, if not an excess of, information to make an informed decision on our client's application."</p>			
Mr S Zwane	Interested & Affected Party	11 November 2022	No response received during this commenting period

SUMMARY OF PUBLIC PARTICIPATION PROCESS

The stakeholders and I&AP's were informed of the project through:

- ❖ Advertisement in the Ladysmith Gazette (English and isiZulu);
- ❖ On-site notices (English and isiZulu) that were placed at public places;
- ❖ Introductory pamphlets/flyers distributed at Matiwane (English & isiZulu);
- ❖ Invitations to comment on the DBAR (hard copy and isiZulu executive summary available at Ladysmith Library);
- ❖ Project meetings held with Me Khumalo, the ward councillor and community representatives.

The landowner signed an agreement letter with the Applicant and in principle supports the application. The error in the public participation documents were corrected and the commenting period was extended with another 30 days.

The outcome of the public participation process resulted in response/comments from:

- ❖ AMAFA / SAHRA;
- ❖ Bukhali Environmental Resource Consulting on behalf of Afrimat Aggregates (Pty) Ltd;
- ❖ Cllr TP Dlamini (Ward 23);
- ❖ Department of Agriculture and Rural Development;
- ❖ Department of Land Affairs;
- ❖ Eskom Distribution & Transmission; and
- ❖ Mr S Zwane.

The comments received during the initial public participation period (30 September 2022 – 31 October 2022), and the extended commenting period on the DBAR (11 November 2022 – 12 December 2022), were incorporated into the amended DBAR.

Subsequently, the project team commissioned an additional (2023) Wetland Assessment and Terrestrial Biodiversity Impact Assessment that were ultimately incorporated into this amended DBAR. The amended DBAR will be available for a 30-days commenting period that will expire on 20 March 2023. Any comments received on the amended DBAR will be incorporated into the final BAR to be submitted to the DMRE for approval.

See attached as Appendix F2 proof of the correspondence with the I&AP's and stakeholders during the public participation.

-END OF COMMENTS AND RESPONSE REPORT-