

**INVEST IN PROPERTY 99 (PTY) LTD APPLIED FOR A  
MINING RIGHT WITHIN THE LEJWELEPUTSWA  
MAGISTERIAL DISTRICT OF THE FREE STATE  
PROVINCE**

**COMMENTS AND RESPONSE REPORT**

***DEPARTMENTAL REFERENCE NUMBER: FS 30/5/1/2/2/10066 MR***

**AUGUST 2023**



## NOTIFICATION TO STAKEHOLDERS AND I&APS DURING PUBLIC PARTICIPATION PHASE

*COMMENTING PERIOD: 13 JULY – 15 AUGUST 2023*

During the public participation process the Stakeholders and I&AP's were informed of the project by means of email notifications that were sent to the contact persons. A 30-days commenting period was allowed which expired on 15 August 2023. The following table provides a list of the I&AP's and stakeholders that were informed of the project:

<b>STAKEHOLDERS</b>			
<b>TITLE, NAME AND SURNAME</b>	<b>AFFILIATION/KEY STAKEHOLDER STATUS</b>	<b>CONTACTED DATE</b>	<b>RESPONSE RECEIVED</b>
Dr Mbulelo Nokwequ	Department of Economic Small Business Development, Tourism and Environmental Affairs	13 July 2023	No Comments Received
Mr Mwseoke	Department of Public Works and Infrastructure	13 July 2023	No Comments Received
Mr Mbana Peter Thabethe	Department of Agricultural and Rural Development	13 July 2023	No Comments Received
Mr Nomfundo Douwjack	Department of Labour	13 July 2023	No Comments Received
Me MS Tlali	Department of Police, Roads and Transport	13 July 2023	No Comments Received

<b>STAKEHOLDERS</b>			
<b>TITLE, NAME AND SURNAME</b>	<b>AFFILIATION/KEY STAKEHOLDER STATUS</b>	<b>CONTACTED DATE</b>	<b>RESPONSE RECEIVED</b>
Mr TP Ntili	Department of Water and Sanitation	13 July 2023	No Comments Received
Mr Ndoda Mgengo	Lekwa-Teemane Local Municipality	13 July 2023	No Comments Received
Mr Kelehile J Motlhale	Tokologo Local Municipality	13 July 2023	No Comments Received
Cllr George Nyamane	Tokologo Local Municipality - Ward 4	13 July 2023	No Comments Received
Ms Palesa Kaota	Lejweleputswa District Municipality	13 July 2023	No Comments Received
Ms Debbie Harding	Eskom	13 July 2023	No Comments Received
Upload onto the Sahr's website of the South African Heritage Resource Agency on 13 July 2023			

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

<b>TITLE, NAME AND SURNAME</b>	<b>AFFILIATION /PROPERTY DESCRIPTION</b>	<b>CONTACTED DATE</b>	<b>RESPONSE RECEIVED</b>
Mr Johannes Nicolaas Fourie	Portion 0 (Remaining Extent) of the farm Abramsyskraal 175	13 July 2023	No Comments Received
Falkirk Estate (Pty) Ltd Mr Nel	Portion 1 of the farm Ebenezer 127	13 July 2023	Comments received from Malan Scholes Attorneys on 14 August 2023
Agrivan Farming (Pty) Ltd	Portion 0 (Remaining Extent) of the farm Ebenezer 127	13 July 2023	Comments received from Malan Scholes Attorneys on 14 August 2023
Wes Rum Boerdery (Pty) Ltd	Portion 1 of the farm Abramsyskraal 175 Portion 3 of the farm Abramsyskraal 175 Portion 12 (Remaining Extent) of the farm Smithskraal 1519 Portion 0 of the farm Thorburnton 106	13 July 2023	Comments received from Malan Scholes Attorneys on 14 August 2023
Leeuwheuvel Boerdery (Pty) Ltd Mr JF van der Merwe	Portion 1 (Remaining Extent) of the farm Leeuwheuvel 262 Portion 4 of the farm Leeuwheuvel 262	13 July 2023	Comments received from Malan Scholes Attorneys on

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

TITLE, NAME AND SURNAME	AFFILIATION /PROPERTY DESCRIPTION	CONTACTED DATE	RESPONSE RECEIVED
	Portion 5 of the farm Leeuwheuvel 263		14 August 2023
Aqua Boerdery (Pty) Ltd	Portion 4 of the farm Smithskraal 1519 Portion 9 of the farm Smithskraal 1519	13 July 2023	Comments received from Malan Scholes Attorneys on 14 August 2023
Ivanco Invest (Pty) Ltd	Portion 5 of the farm Smitskraal 1519 Portion 17 of the farm Smitskraal 1519	13 July 2023	Comments received from Malan Scholes Attorneys on 14 August 2023
Tilba Estate (Pty) Ltd	Portion 2 (Remaining Extent) of the farm Smithskraal 1519 Portion 7 of the farm Smithskraal 1519	13 July 2023	Comments received from Malan Scholes Attorneys on 14 August 2023

Response received from Malan Scholes Attorneys representing:

- Agrivan Farming Proprietary Limited, owner of the remaining extent of the farm Ebenezer 127 RD;

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

**TITLE, NAME AND SURNAME**

**AFFILIATION /PROPERTY DESCRIPTION**

**CONTACTED DATE**

**RESPONSE RECEIVED**

- Falkirk Estate Proprietary Limited, owner of portion 1 of the farm Ebenezer 127 RD;
- Leeuwheuwel Boerdery Proprietary Limited, owner of portions 1, 4 and 5 of the farm Leeuwheuvel 262 RD;
- Aqua Boerdery Proprietary Limited, owner of portions 9, 4 and the remaining extent of portion 4 of the farm Smithskraal 1519 RD;
- Tilba Estate Proprietary Limited, owner of portions 2 and 7 of the farm Smithskraal 1519 RD;
- Wesruim Boerdery Proprietary Limited, owner of the farms Abramsyskraal 175 RD, Thorburnton 106 RD and of Portion 12 of the farm Smithskraal 1519 RD; and;
- Ivanco Invest Proprietary Limited, owner of portion 5 of the farm Smithskraal 1519 RD

**ISSUES RAISED INCLUDING EAP RESPONSE IN BULLETS**

RE: COMMENTS IN RESPECT OF THE DRAFT SCOPING REPORT BY INVEST IN PROPERTY 99 PROPRIETARY LIMITED FOR AN APPLICATION FOR AN ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 107 OF 1998, AS AMENDED, WITH DEPARTMENT OF MINERAL RESOURCES AND ENERGY REFERENCE NUMBER: FS 30/5/1/2/2/10077 MR

The above matter as well as letter received from you dated 14 August 2023 refers. Please see responses to your comments listed below:

1 Introduction

1.1 We act for –

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

TITLE, NAME AND SURNAME	AFFILIATION /PROPERTY DESCRIPTION	CONTACTED DATE	RESPONSE RECEIVED
-------------------------	-----------------------------------	----------------	-------------------

- 1.1.1 Agrivan Farming Proprietary Limited, owner of the remaining extent of the farm Ebenezer 127 RD;
  - 1.1.2 Falkirk Estate Proprietary Limited, owner of portion 1 of the farm Ebenezer 127 RD;
  - 1.1.3 Leeuwheuwel Boerdery Proprietary Limited, owner of portions 1, 4 and 5 of the farm Leeuwheuwel 262 RD;
  - 1.1.4 Aqua Boerdery Proprietary Limited, owner of portions 9, 4 and the remaining extent of portion 4 of the farm Smithskraal 1519 RD;
  - 1.1.5 Tilba Estate Proprietary Limited, owner of portions 2 and 7 of the farm Smithskraal 1519 RD;
  - 1.1.6 Wesruim Boerdery Proprietary Limited, owner of the farms Abramsyskraal 175 RD, Thorburnton 106 RD and of Portion 12 of the farm Smithskraal 1519 RD; and;
  - 1.1.7 Ivanco Invest Proprietary Limited, owner of portion 5 of the farm Smithskraal 1519 RD,
- (collectively, our “Clients”).

Noted,

1.2 We refer to your email dated 13 July 2023 (“13 July Email”) which referred to the draft Scoping Report (“Draft Scoping Report”) by Greenmined Environmental Proprietary Limited (“Greenmined”) prepared on behalf of Invest in Property 99 Proprietary Limited (“Invest in Property 99” or the “Applicant”), pursuant to its application for environmental authorisation (“EA Application”) in terms of part 3 of Chapter 4 of the Environmental Impact Assessment Regulations, 2014 (GNR 982 of 8 December 2014), as amended (“EIA Regulations”), published in terms of the provisions of the National Environmental Management Act, 107 of 1998, as amended (“NEMA”). A copy of the 13 July Email is attached hereto as Annexure “A”.

1.3 The EA Application relates to Invest in Property 99’s application for a mining right in accordance with the provisions of section 22 of the Mineral and

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

TITLE, NAME AND SURNAME	AFFILIATION /PROPERTY DESCRIPTION	CONTACTED DATE	RESPONSE RECEIVED
-------------------------	-----------------------------------	----------------	-------------------

Petroleum Resources Development Act, 28 of 2002, as amended, bearing Department of Mineral Resources and Energy (“DMRE”) reference number: FS 30/5/1/2/2/10077 MR (“MR Application”), for “Gold Ore and Diamonds (Alluvial)” in respect of the farms Abrahamsykraal 175, Annex-Naudesfontein 259, Beth el Pella 626, Leeuwheuvel 262 and Smithskraal 1519, situated in the Magisterial District of Boshof. The DMRE accepted the Applicant’s MR Application on 3 July 2023, a copy of the letter (“Acceptance Letter”) is attached hereto as Annexure “B”.

1.4 Our Clients’ properties, as listed in paragraph 1.1 above, are subject to the EA Application and MR Application submitted by Invest in Property 99.

1.5 The purpose of this letter is to provide comments, in terms of regulation 43 of the EIA Regulations, by our Clients, in the form of an objection and to bring specific issues to the attention of, inter alia, Greenmined and the DMRE, which are significant issues in respect of the EA Application. Our Clients’ comments and objections are set out in paragraph 2 below.

1.2 – 1.5 is noted,

1.6 Our Clients’ current use of the Properties

At present, our Clients undertake farming activities on the properties listed in paragraph 1.1 above. The farming activities include, but are not limited to the following –

1.6.1.1 more than 60% of the potato seed production of South Africa;

1.6.1.2 Mixed arable farming: onions, maize, and wheat;

1.6.1.3 pecan orchards; and

1.6.1.4 cattle and livestock production.

1.6.2 The Applicant’s intended mining activities on our Clients properties will, without question, have a serious and irreversible impact on food security in South



**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

TITLE, NAME AND SURNAME	AFFILIATION /PROPERTY DESCRIPTION	CONTACTED DATE	RESPONSE RECEIVED
-------------------------	-----------------------------------	----------------	-------------------

Africa, beyond the scale merely of the properties of our Clients. The significance of this cannot be overstated.

1.6 is noted,

2 Comments and Objections in respect of the EA Application

2.1 Premature submission of the EA Application

2.1.1 According to the Applicant’s Draft Scoping Report, the EA Application was lodged by the Applicant on 14 June 2023 and page 36 of the Draft Scoping Report specifically states that –

“[T]he application for a mining right (together with supporting documentation) as well as the application for an environmental authorisation were uploaded simultaneously onto the SAMRAD system on 14 June 2023 [our emphasis].”

2.1.2 It is necessary to point out that the EIA Regulations were amended by GN 517 of 11 June 2021, prior to the Applicant’s submission of its EA Application.

2.1.3 In terms of regulation 16(1)(b)(ix) of the EIA Regulations, the Applicant’s EA Application had to be accompanied by “proof of acceptance of an application for any right, permission, permit or consent in terms of the Mineral and Petroleum Resources Development Act, 2002, where the application is a mining application”.

2.1.4 Regulation 16(2)(a) of the EIA Regulations goes further to state that – “(2) [A]n applicant for an environmental authorisation may –

(a) where applicable, only be submitted after the acceptance of an application for any right, permission, permit or consent in terms of the Mineral and Petroleum Resources Development Act, 2002;

(b) ... [our emphasis].”

2.1.5 The EIA Regulations therefore clearly provide that the Applicant could only submit its EA Application after its MR Application had been accepted by the

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

**TITLE, NAME AND SURNAME**

**AFFILIATION /PROPERTY DESCRIPTION**

**CONTACTED DATE**

**RESPONSE RECEIVED**

Regional Manager.

2.1.6 However, it is evident from the Acceptance Letter which is attached hereto as Annexure “B” that the DMRE only accepted the Applicant’s MR Application on 3 July 2023, some 19 days after the submission of the Applicant’s EA Application.

2.1.7 In light of the above, it is clear that the Applicant has failed to comply with the provisions of regulation 16 of the EIA Regulations. Accordingly, it is our view that the EA Application must be withdrawn and resubmitted by following the appropriate procedure provided for in the EIA Regulations. In the event that the DMRE disagrees with our view (which we believe is unlikely), we submit that a decision by the DMRE to approve the EA Application will be unlawful.

It is correct that the EIA Regulations were amended prior to the submission of the mining right application, in which amendment proof of acceptance of the application is required prior to the submission of an environmental authorisation application.

However, although the application was submitted 3 days after the amendment of the EIA Regulations, the practical submission of such an application on the DMRE’s SAMRAD portal requires the simultaneous submission of an environmental authorisation application. Yet, to this day the simultaneous submission of an environmental authorisation application is required as part of a mining right application on the SAMRAD portal.

Furthermore, the DMRE confirms in clause 3 of its acceptance letter that the environmental authorisation application is considered completed by this acceptance letter.

The Applicant is therefore of the view that it complied with the provisions of Regulation 16 and your allegations that the EA application must be withdrawn and resubmitted is unfounded.

2.2 False and misleading information

2.2.1 Landowner engagement and consent

2.2.1.1 The Applicant states on page 28 of the Scoping Report that “the Applicant entered into a surface use agreement with the property owners when the

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

TITLE, NAME AND SURNAME	AFFILIATION /PROPERTY DESCRIPTION	CONTACTED DATE	RESPONSE RECEIVED
-------------------------	-----------------------------------	----------------	-------------------

prospecting right (FS30/5/1/1/2/474PR) was issued” and goes further to state that “[s]hould the mining right be issued, the Applicant committed to renew the said surface use agreement with every property owner, honouring the commitment to mine only in areas as agreed with the landowner that does not extend over pivots or orchards or impede farming/business activities”.

2.2.1.2 We wish to record that none of our Clients have entered into any agreements with the Applicant. The statements referred to in paragraph 2.2.1.1 above are clearly false and aimed at misleading the DMRE, as these statements create the impression that the Applicant has obtained the consent of all the landowners, including our Clients, and conducted extensive engagements with our Clients.

2.2.1.3 For the avoidance of doubt, it is recorded that our Clients, as affected landowners, do not consent to the EA Application and strongly object thereto.

Numerous meetings were held with the Landowners in order to get a fair and amicable Surface Use Agreement that protected the Right Holder as well as the Landowner since 2016, these meetings were attended by numerous landowners and was signed of by some. However we take note of the point in your letter above and will remove this from the Final Scoping report.

2.2.2 Listed Activities Table

2.2.2.1 Table 1 on pages 16 and 17 of the Draft Scoping Report outlines the listed activities which the Applicant will trigger as a consequence of its intended mining activities. This table is incredibly misleading, as the “aerial extent of the activity” in hectares is only in respect of 6 “minor areas” (12ha) that the Applicant intends mining simultaneously at a point in time. The table must show the full extent of the mining footprint, including all “minor areas” over the life of the mine. This approach by the Applicant is simply unacceptable and creates an impression that the Applicants mining activities will have a minimal footprint where in fact the MR Application area is over 20 000ha.

2.3 Change in Land Use

2.3.1 The Applicant’s Scoping Report states on page 25, regarding the application of the Spatial Planning and Land Use Management Act, 16 of 2013, that “[a] town and regional planner has been appointed to investigate the relevance of this act to the proposed application”.

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

TITLE, NAME AND SURNAME	AFFILIATION /PROPERTY DESCRIPTION	CONTACTED DATE	RESPONSE RECEIVED
-------------------------	-----------------------------------	----------------	-------------------

2.3.2 We wish to record that the Constitutional Court, in the cases of Maccsand (Proprietary) Limited v City of Cape Town and Others CCT 103/11 and Swartland Municipality v Louw NO & Others CCT 102/11 (which were heard together), found that the holder of, inter alia, a Mining Right is obliged to comply with the relevant zoning requirements and may therefore, only commence Mining Operations, as defined in the MPRD Act, if the zoning of the land allows it.

2.3.3 Accordingly, the Applicant will be required to re-zone the properties on which it intends conducting its proposed Mining Operations. It is recorded that such re-zoning will interfere with our Clients' existing lawful use of their properties as their properties are currently zoned for agricultural purposes.

We take note of the above. The mining activities are temporary, and the land will revert back to agriculture post mining. The applicant will however consult with the local municipality (the competent authority in this regard) in order to find an amicable solution for 2.3 above.

2.4 Impact on landowners' activities

2.4.1 It is submitted that the Applicant's proposed Mining Operations will negatively affect our Clients' agricultural activities. Furthermore, the granting of a Mining Right will impact on the value of our Clients' properties.

2.4.2 The Draft Scoping Report prepared by Greenmined on behalf of the Applicant is incredibly vague, as the Scoping Report does not indicate when and to what extent our Clients' properties will be affected by the Applicant's proposed Mining Operations. This places our Clients in an untenable position as they are unable to ascertain when or how their properties will be affected by the Applicant's invasive mining activities.

2.4.3 The "minor areas" which the Applicant intends mining will be sterilised for an unknown period of time, potentially preventing our Clients from utilising these areas for agricultural purposes. There appears to be a commitment from the Applicant to rehabilitate each area back to its original state. This commitment is however unsatisfactory as our Clients are required to maintain strict environmental practices to satisfy its local and international customers. Returning the land to the required end land use may take many years.

2.4.4 What is most concerning is that on page 3 of the Draft Scoping Report it is stated inter alia that "[I]n the long term, rehabilitation will comprise the reinstatement of all remaining disturbed areas (mining related) prior to the submission of a closure application to the Department of Mineral Resources and Energy

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

TITLE, NAME AND SURNAME	AFFILIATION /PROPERTY DESCRIPTION	CONTACTED DATE	RESPONSE RECEIVED
-------------------------	-----------------------------------	----------------	-------------------

(DMRE).”

2.4.5 It appears that final rehabilitation of “minor areas” will only occur in the “long term” and prior to the submission of a closure application to the DMRE. The Applicant is applying for a Mining Right for a period of 30 years. It therefore appears that the land will only be returned to its original land use potential after a 30-year period, effectively sterilising our Clients land for this period of time. The Draft Scoping Report attempts to spin this sterilisation as a “positive impact” (page 69 of the Draft Scoping Report) by referring to the fact that landowners will receive some form of alternative income from the Applicant. The Draft Scoping Report provides no detail regarding what this “income” might be or how the Applicant intends compensating landowners for the sterilisation of land for up to 30 years.

2.4.6 The above also contradicts the following statement made in the executive summary of the Draft Scoping Report –

“In other words, the total footprint to be disturbed by mining activities at any given time calculates to ±12 ha of the 20 207.3968 ha mining right area, upon which a mined-out minor area has to be rehabilitated prior to the opening of a subsequent minor area.”

2.4.7 Although the Applicant appears to commit to rehabilitating a “minor area” before opening a new “minor area”, this is simply untrue considering that rehabilitation will only be completed in the “long term” before a closure application is submitted in 30 years’ time.

2.4.8 As will be addressed in detail below, no prospecting activities were ever undertaken on our Clients’ properties. The Applicant has no definitive information relating to the presence of gold or alluvial diamonds on our Clients’ properties. The Applicant is simply proceeding with a “fishing” expedition, where these so-called “minor areas” will be invasively mined without any knowledge of whether a mineral even exists or can be viably mined. Such a fishing expedition does not in any manner warrant the long-term sterilisation of our Clients’ land.

2.4.9 Furthermore, we refer to the Constitutional Court judgment of *Bengwenyama Minerals (Pty) Ltd and Others v Genorah Resources (Pty) Ltd and Others* 2011 (4) SA 113 (CC), where the Constitutional Court provided the test for landowner consultation in the context of the MPRD Act. The following is stated in paragraph 67 of the judgment –

“The consultation process required by section 16(4)(b) of the Act thus requires that the applicant must: (a) inform the landowner in writing that his application for prospecting rights on the owner’s land has been accepted for consideration by the Regional Manager concerned; (b) inform the landowner in sufficient detail of

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

TITLE, NAME AND SURNAME	AFFILIATION /PROPERTY DESCRIPTION	CONTACTED DATE	RESPONSE RECEIVED
-------------------------	-----------------------------------	----------------	-------------------

what the prospecting operation will entail on the land, in order for the landowner to assess what impact the prospecting will have on the landowner's use of the land; (c) consult with the landowner with a view to reach an agreement to the satisfaction of both parties in regard to the impact of the proposed prospecting operation; and (d) submit the result of the consultation process to the Regional Manager within 30 days of receiving notification to consult."

2.4.10 The consultation test outlined in Bengwenyama similarly applies to Mining Right applications in terms of the MPRD Act.

2.4.11 The Applicant has failed to inform our Clients "in sufficient detail" of its intended mining activities, in order for our Clients to assess what the impact of mining will have on their use of the land. With the exception of providing the Draft Scoping Report to our Clients on 13 July 2023, no effort has been made to engage with our Clients since the submission of the EA Application and MR Application. Considering how vague Draft Scoping Report is, the Applicant has clearly failed to meet the minimum consultation requirements imposed by the Constitutional Court in Bengwenyama.

2.4.12 The Draft Scoping Report states on page 26 that a water use license application will be submitted in terms of the National Water Act, 36 of 1998, as amended. No mention is made of when this application will be submitted or what listed water uses will be applied for. It is submitted that the Applicant cannot at this stage even identify the water uses it will trigger as it has failed to identify or specify where mining will be undertaken. This is particularly concerning as the increased use of water is rated as a "high significance" impact on page 71 of the Draft Scoping Report and this impact can only be partially mitigated. It is reiterated that our Clients utilise the land for agricultural purposes where reliance on water resources is critical.

Response to comment 2.2.2 as well as 2.4

As stated throughout the DSR Invest in Property 99 (Pty) Ltd applied for environmental authorisation to mine alluvial diamonds and gold from a 20 207.3968 ha area that extends over thirty-six properties in the Lejweleputswa magisterial district of the Free State Province. Even though the project application extends over a vast area, the Applicant proposes to divide the mining right footprint (hereinafter referred to as the "major area") into smaller mining areas of ±2 ha each (hereinafter referred to as the "minor areas") that will be positioned in between areas of agricultural importance. In other words, the total footprint to be disturbed by mining activities at any given time calculates to ±12 ha of the 20 207.3968 ha mining right area, upon which a mined-out minor area has to be rehabilitated prior to the opening of a subsequent minor area. This rehabilitation will also be done with consent from the landowner, prior to the reopening of the next area. The current project proposal will entail the disturbance of ±0.06% of the mining right area (major area) at any given time, as concurrent rehabilitation (strip-mining) is proposed.

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

TITLE, NAME AND SURNAME	AFFILIATION /PROPERTY DESCRIPTION	CONTACTED DATE	RESPONSE RECEIVED
-------------------------	-----------------------------------	----------------	-------------------

Operational phase that is presently expected to entail the simultaneous mining of six (6) minor areas within the footprint of the major mining right area. The estimated footprint of a single minor area is proposed to be ±2 ha, meaning that the footprint of the operational areas will calculate to a maximum of ±12 ha at any given time (should all six minor areas be operational). The mining method to be implemented at each minor area will resemble the current prospecting invasive activities. Upon the prospecting and exploration of allowable (agreed to by the landowner) farm portions, the opencast and strip-mining method will be used to recover diamond bearing gravel that will be processed, upon which the concentrated product is transported to an off-site recovery plant.

Decommissioning phase which will include activities that can be divided into medium- and long term categories. In the medium term, rehabilitation will entail the continuous reinstatement of mined-out minor areas through the use of overburden and spoil material to backfill excavation pits, reinstatement of decommissioned processing areas, rehabilitation of settling ponds as well restoring eroded areas and the management of weeds and invasive plant species. In the long term, rehabilitation will comprise the reinstatement of all remaining disturbed areas (mining related) prior to the submission of a closure application to the Department of Mineral Resources and Energy (DMRE). Long term rehabilitation will entail reinstatement of all remaining disturbed areas if any (mining related) that might be left that is required to be done in order for DMRE to give closure on the proposed mining right area. All the minor areas will indeed be rehabilitated as proposed above prior to opening new areas. This will also be stated clearly in the FSR.

It is important to reiterate that the applicant confirmed that no mining will take place in pivots and orchards unless the run is so rich the landowner has the final say should a run migrate and move in the direction of restricted areas. The areas to be mined are dormant tracts of land that is not cultivated, mainly due to the fact that they do not have sufficient agricultural water use rights to turn some of this land into agricultural use. Due to the topography and ancient paleo channels certain land is so barren and rocky due to old river deposits that cannot be used for profitable farming.

Should the MR be granted mining will commence on farms where prospected already took place and on the other farms in question a drilling and trenching program will comment after an agreement has been reached between the Right Holder and the Landowner to ascertain further viable and possible mining sites.

A water use license application will be submitted in terms of the National Water Act, 36 of 1998, as amended. Water uses applicable to the mining activities will be applied for once the mining areas in consultation with the landowners has been finalised. As it is agreed by the applicant that active agricultural areas and existing cultivated land will be regarded as no go zones unless otherwise agreed to water uses will only then be determined. This will further be responded to in the Draft Environmental Impact Assessment Report, which will also be provided to the specialists forming part of the project team for their input.

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

**TITLE, NAME AND SURNAME**

**AFFILIATION /PROPERTY DESCRIPTION**

**CONTACTED DATE**

**RESPONSE RECEIVED**

2.5 Failure to assess cumulative impacts

2.5.1 In the executive summary of the Draft Scoping Report, it is stated that –

“Invest in Property 99 (Pty) Ltd applied for environmental authorisation to mine alluvial diamonds and gold from a 20 207.3968 ha area that extends over thirty-six properties in the Lejweleputswa magisterial district of the Free State Province. Even though the project application extends over a vast area, the Applicant proposes to divide the mining right footprint (hereinafter referred to as the “major area”) into smaller mining areas of ±2 ha each (hereinafter referred to as the “minor areas”) that will be positioned in between areas of agricultural importance. In other words, the total footprint to be disturbed by mining activities at any given time calculates to ±12 ha of the 20 207.3968 ha mining right area, upon which a mined-out minor area has to be rehabilitated prior to the opening of a subsequent minor area.”

2.5.2 Considering this statement, it is impossible to assess the cumulative impacts of the Applicant’s proposed Mining Operations, as the Draft Scoping Report does not even mention how many of the so-called “minor areas” will be mined during the life of the Applicant’s proposed mine.

2.5.3 Appendix 4 to the Draft Scoping Report is a “site layout plan”. The Applicant intends to construct, in each “minor area”, stockpiles, a salvage yard, a settling pond, parking bays, a kitchen and processing equipment (amongst other infrastructure). Without identifying where these “minor areas” will be located and in fact how many “minor areas” will be mined, it is impossible to assess the impacts (including the cumulative impacts) of this infrastructure on our Clients’ land and use thereof.

2.5.4 Item 1(d) of Appendix 2 to the EIA Regulations sets out the minimum requirements applicable to a Scoping Report. Item 1(d) of Appendix 2 states that the objective of the Scoping report is to, inter alia –

“identify and confirm the preferred site, through a detailed site selection process, which includes an identification of impacts and risks inclusive of identification of cumulative impacts [our emphasis] and a ranking process of all the identified alternatives focusing on the geographical, physical, biological social, economic, and cultural aspects of the environment”.



**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

TITLE, NAME AND SURNAME	AFFILIATION /PROPERTY DESCRIPTION	CONTACTED DATE	RESPONSE RECEIVED
-------------------------	-----------------------------------	----------------	-------------------

2.5.5 We submit that the Draft Scoping Report –

2.5.5.1 does not, through a detailed site selection process, identify or confirm any preferred sites; and

2.5.5.2 makes no mention of the potential cumulative impacts associated with the Applicant’s proposed Mining Operations, which we submit cannot be assessed in circumstances where preferred sites have not been identified.

2.5.6 It is evident from the above that the Draft Scoping Report submitted by the Applicant does not meet the minimum requirements set out in Appendix 2 to the EIA Regulations and therefore cannot be accepted by the DMRE.

All comments pertaining to site layout, cumulative impacts as well as any alternatives can only be done in consultation with the landowners as it is agreed by the applicant that active agricultural areas and existing cultivated land will be regarded as no go zones unless otherwise agreed to. These comments will be responded to in the Draft Environmental Impact Assessment Report, which will also be provided to the specialists forming part of the project team for their input. All comments, concerns and/or objections received as part of this process will be listed and submitted to DMRE for consideration.

A non-invasive visit to the farms in question with a geologist along with the applicant and the landowners is proposed in order to identify areas of potential.

2.6 Prospecting Operations

2.6.1 On page 17 of the Draft Scoping Report, under the heading “[D]escription of the activities to be undertaken”, it is stated that –

“[t]he Applicant, Invest in Property 99 (Pty) Ltd, currently holds a prospecting right (FS 30/5/1/1/2/474 PR) over the proposed mining right application area, where the prospecting for alluvial diamonds is in progress. Owing to the prospecting outcome [our emphasis] up until now, the Applicant applied for a mining right for the winning of alluvial diamonds and gold.”

2.6.2 The Draft Scoping Report further states on page 27, under the heading “[N]eed and desirability of the proposed activities”, that –

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

TITLE, NAME AND SURNAME	AFFILIATION /PROPERTY DESCRIPTION	CONTACTED DATE	RESPONSE RECEIVED
-------------------------	-----------------------------------	----------------	-------------------

“[t]he prospecting results (to date) have shown that the prospecting area has a high potential to yield diamondiferous gravel. Prospecting has however also shown that the presence of diamondiferous gravel is highly variable and cannot be projected based on the amount of prospecting done to date. The Applicant therefore desires the proposed mining right to incorporate the entire prospecting right area as this will allow additional time for prospecting and mining of the resource within the remaining footprint.”

2.6.3 The Draft Scoping Report goes further on page 22 to state that –

“[t]he variability of alluvial diamond deposits in turn necessitate prospecting to precede mining activities, adding to the timeframe required to successfully exploit the resource present within the study area. In light of these technicalities, and the fact that diamondiferous gravel requires constant pursuing, the Applicant expects the proposed project to extend over a 30 year period.”

2.6.4 As already stated above, the Applicant has not conducted any prospecting activities on our Clients’ properties.

2.6.5 The Applicant’s Draft Scoping Report does not in any manner outline what additional prospecting the Applicant intends undertaking. Our Clients cannot therefore assess how these proposed prospecting activities will affect their continued use of their land. We once again refer to the Constitutional Court Judgment in Bengwenyama, referred to in 2.4.9 above.

2.6.6 It is further recorded that this MR application is grossly opportunistic, as the Applicant is seeking to reserve over 20 000 ha of land for a period of 30 years for prospecting activities. The MPRD Act provides that a Prospecting Right cannot be granted for a period of more than 8 years (including any period of renewal). The Applicant is attempting to circumvent this legislative restriction. This is unreasonable and unlawful.

2.6.7 It is submitted that the Applicant, at best, is restricted to applying for a Mining Right and an EA over properties where –

2.6.7.1 prospecting results have shown that a mineral is present on the properties;

2.6.7.2 the target areas have been clearly identified;

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

TITLE, NAME AND SURNAME	AFFILIATION /PROPERTY DESCRIPTION	CONTACTED DATE	RESPONSE RECEIVED
-------------------------	-----------------------------------	----------------	-------------------

2.6.7.3 the mineral can be optimally mined; and

2.6.7.4 the impacts of mining have been properly assessed or are capable of being assessed and can be mitigated to reasonable levels.

2.6.8 This clearly excludes our Clients' properties.

2.6.9 In light of the above, and specifically due to the fact that the Applicant has only conducted limited prospecting activities, we are of the view that both the Applicant's EA Application and the MR Application must be refused as the Applicant will not be able to prove that it can optimally mine the minerals which are subject to its MR Application.

2.6.10 To reiterate, the negative impacts associated with the Applicant's proposed Mining Operations cannot be justified as the Applicant's operations will amount to an arbitrary "fishing" exercise as it cannot confirm the presence of any diamond deposits on our Clients' properties.

Comments noted however the applicant does have ample evidence from prospecting done in the area that mining operations will indeed be viable.

**3 Conclusion**

3.1 It is evident from the comments and objections outlined in paragraph 2 above that the EA Application is significantly flawed as a result of several non-compliances with the EIA Regulations.

3.2 Accordingly, we submit that the Applicant's EA Application is a "non-starter" and the DMRE is obliged to reject the Draft Scoping Report.

3.3 In terms of regulation 44 of the EIA Regulations, these comments and objections must be recorded in the reports and plans to be submitted to the competent authority pursuant to the EA Application.

3.4 We reiterate that our Clients produce more than 60% of the potato seeds in South Africa (amongst other farming activities). Any mining or related activities on our Clients' properties will have a direct impact on South Africa's food security.

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

TITLE, NAME AND SURNAME	AFFILIATION /PROPERTY DESCRIPTION	CONTACTED DATE	RESPONSE RECEIVED
<p>3.5 All of our Clients' rights are reserved.</p> <p>All comments received for you as well as our response will be incorporated in the Final Scoping Report to be submitted to DMRE for their consideration.</p>			
Yorkagric (Pty) Ltd	Portion 2 (Remaining Extent) of the farm Abramsyskraal 175 Portion 6 of the farm Abramsyskraal 175	13 July 2023	No Comments Received
Seriso 654 (Pty) Ltd Mr LH Claasen	Portion 8 of the farm Abramsyskraal 175	13 July 2023	No Comments Received
VTV Boerdery (Pty) Ltd Mr Nicky Fourie	Portion 0 (Remaining Extent) of the farm Annex-Naudesfontein 259 Portion 2 of the farm Annex-Naudesfontein 259 Portion 3 of the farm Annex-Naudesfontein 259 Portion 4 of the farm Annex-Naudesfontein 259	13 July 2023	No Comments Received
National Government of the Republic of South Africa	Portion 0 (Remaining Extent) of the farm Beth-El-Pella 623	13 July 2023	No Comments Received

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

<b>TITLE, NAME AND SURNAME</b>	<b>AFFILIATION /PROPERTY DESCRIPTION</b>	<b>CONTACTED DATE</b>	<b>RESPONSE RECEIVED</b>
Laucob Boerdery CC	Portion 1 (Remaining Extent) of the farm Beth-EI-Pella 623 Portion 2 (Remaining Extent) of the farm Beth-EI-Pella 623 Portion 4 of the farm Beth-EI-Pella 623 Portion 7 of the farm Beth-EI-Pella 623 Portion 2 (Remaining Extent) of the farm Leeuwheuvel 262	13 July 2023	No Comments Received
Mr Willem Andries Fourie	Portion 6 of the farm Beth-EI-Pella 623	13 July 2023	No Comments Received
Callender-Easby Trust	Portion 2 of the farm Ebenezer 127	13 July 2023	No Comments Received
Peace Haven Trust	Portion 7 (Remaining Extent) of the farm Leeuwheuvel 262	13 July 2023	No Comments Received
Mr Christoffel Petrus Laubscher	Portion 8 of the farm Leeuwheuvel 262	13 July 2023	No Comments Received

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

TITLE, NAME AND SURNAME	AFFILIATION /PROPERTY DESCRIPTION	CONTACTED DATE	RESPONSE RECEIVED
Adriaan Hendrik de Beer Testamentere Trust	Portion 13 (Remaining Extent) of the farm Smithskraal 1519	13 July 2023	13 July 2023
<p>In reply to your email, I wish to inform you that Invest in Property 99 (Pty Ltd) no longer hold any Prospecting or Mining Rights on Subdivision 13 of the farm Smithskraal 1519.</p> <p>A letter from the Department of Mineral Resources and Energy to confirm this fact, is hereby attached.</p> <p>Kindly remove this property from your list.</p>			
<p>The contents of your email are noted and will be included in the Final Scoping Report for further perusal by DMRE.</p> <p>We trust you find the above in order.</p>			
Belle Rive Properties (Pty) Ltd	Portion 15 of the farm Smithskraal 1519 Portion 18 of the farm Smithskraal 1519	13 July 2023	No Comments Received
Haib System Trading 04 Trading (Pty) Ltd Dr Johann Schutte	Portion 0 (Remaining Extent) of the farm Catharina 44 Portion 8 of the farm Catharina 44	13 July 2023	No Comments Received

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

<b>TITLE, NAME AND SURNAME</b>	<b>AFFILIATION /PROPERTY DESCRIPTION</b>	<b>CONTACTED DATE</b>	<b>RESPONSE RECEIVED</b>
Submac Plant CC Mr Erwin van Vuuren	Portion 0 of the farm Onrust 332	13 July 2023	No Comments Received
Mr Petrus Johannes Roos	Portion 2 (Remaining Extent) of the farm Uitkyk 342	13 July 2023	No Comments Received
Abwema Boerdery (Pty) Ltd Mr Arthur Westby Percival	Portion 4 (Remaining Extent) of the farm Cawoods Hope 324	13 July 2023	No Comments Received
Mr Hendrik Esterhuyse	Portion 1 of the farm Buitenhoop 333	13 July 2023	No Comments Received
Mr Pieter Jacobus Esterhuyse	Portion 2 of the farm Buitenhoop 333	13 July 2023	No Comments Received
VTV Bemarking (Pty) Ltd Mr Nicky Fourie	Portion 0 (Remaining Extent) of the farm Buitenhoop 333 Portion 0 of the farm Annex Naudesfontein 1618 Portion 2 of the farm Naudesfontein 263	13 July 2023	No Comments Received

**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

TITLE, NAME AND SURNAME	AFFILIATION /PROPERTY DESCRIPTION	CONTACTED DATE	RESPONSE RECEIVED
Callavista (Pty) Ltd Mr Izak Potgieter	Portion 0 of the farm Vaal-laagte 274 Portion 0 of the farm Holpan 260	13 July 2023	No Comments Received
Sanet Nel Trust Me Sanet van der Merwe	Portion 3 of the farm Pandam 467	13 July 2023	No Comments Received
Uys Familie Boerdery (Pty) Ltd Charl Uys	Portion 0 (Remaining Extent) of the farm Ganna Vlakte 19	13 July 2023	7 August 2023

Response received from Mr Uys: I herewith formally lock my objection against the proposed mining of Gold Ore and Diamonds (Alluvial) on the mentioned farms listed below.

Mining and farming is directly the opposite of each other and as a concerned farmer who takes care of the land, mining is against everything I stand for.

Please put my serious objection on record.

Thank you for taking part in the Public Participation Process of the mining right application applied for by Invest in Property 99 (Pty) Ltd under reference number FS 30/5/1/2/2/10177. You are hereby registered as an Interested and Affected Party and will receive further communication regarding this application.

Greenmined Environmental (Pty) Ltd, the independent environmental consultant on the application, thank you for your objections on the Draft Scoping Report and herewith acknowledge receipt of your correspondence dated 7 August 2023.

We take note of your concerns and will incorporate your comments into the Final Scoping Report, for consideration by the Department of Mineral Resources and



**LANDOWNER / SURROUNDING LANDOWNERS / INTERESTED AND AFFECTED PARTIES**

**TITLE, NAME AND SURNAME**

**AFFILIATION /PROPERTY DESCRIPTION**

**CONTACTED DATE**

**RESPONSE RECEIVED**

Energy (DMRE).

**SUMMARY OF PARTICIPATION PROCESS**

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

- ❖ email notifications
- ❖ placement of on-site notices at the site boundaries and at the Spar in Christiana
- ❖ placement of an advertisement in the Noordkaap Bulletin on 13 July 2023

All comments received on the DSR will be incorporated into the FSR.

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

**END OF COMMENTS AND RESPONSE REPORT-**