

OBJECTION AGAINST APPLICATION FOR PROSPECTING RIGHT AND COMMENTS ON APPLICATION FOR ENVIRONMENTAL AUTHORISATION SUBMITTED IN TERMS OF THE PROVISIONS OF THE MINERAL AND PETROLEUM RESOURCES DEVELOPMENT ACT, ACT 28 OF 2008

DIRECTLY AFFECTED LAND OWNERS AND MEMBERS OF THE SAVE THE OVERBERG COALITION	OBJECTORS
CIENTH (PTY) LTD	APPLICANT
APPLICATION REFERENCE NUMBER	WC 30/5/1/1/2/10464PR
PROPERTY	VARIOUS FARMS IN NAPIER DISTRICT

This submission is submitted on behalf of the registered owners of the properties (hereinafter referred to as the "Land Owners") mentioned below and the members of the Save the Overberg Coalition (hereinafter referred to as the "STOC") and it constitutes a formal joint objection (the said Land Owners and STOC members are jointly referred to as the "Objectors") against the application for a prospecting right, an application for environmental authorisation and environmental management report on various agricultural properties in the Napier District, Cape Agulhas Municipality.

Fact – an unknown inexperienced entity with no technical or financial abilities for the fourth time attempts to obtain prospecting rights in respect of active food-producing agricultural farms located in an environmentally sensitive area and providing a source of income for a significant number of residents and their families. The submitted application and basic assessment report are generic in nature, fail to properly address material issues and in certain aspects are misleading.

The purpose of this submission therefore is to indicate to the relevant authority why this application should be summarily rejected.

INTRODUCTION

1. Cienth (Pty) Ltd (hereinafter referred to as the "Applicant") applied for a prospecting right in terms of section 16 of the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002), (hereinafter referred to as the "Act") to prospect for gold ore, silver ore and tin ore on the following properties -

Farm name	Farm Number	Portion	Owner
	34	0	
	34	1	
	326	0	
	327	0	
	404	0	
ELANDSKLOOF	117	0	
ELANDSKLOOF	117	2	
ELANDSKLOOF	117	3	
ELANDSKLOOF	117	4	
ELANDSKLOOF	117	11	
ELANDSKLOOF	117	13	
HANSIESKLOOF	33	0	
LEEUVEN RIVIER	27	0	
LEEUVEN RIVIER	27	6	
REMHOOGTE	120	0	
ZOUTEKLOOF	116	0	

All located in Napier, the magisterial district of Bredasdorp, Cape Agulhas Municipality, Western Cape Province (hereinafter jointly referred to as the “Prospecting Area”). This application was provisionally accepted by the Department of Mineral Resources: Western Cape Region (hereinafter referred to as the “DMR”) on 12 April 2024.

2. The Applicant gave no details of the registered owners of the Properties.
3. Following the acceptance of 12 April 2024, the DMR issued on the same date a notice (attached hereto as **Annexure “STOC 1”**) informing interested and affected parties -
 - 3.1. of the prospecting application, the minerals involved, the properties involved, and the details of the Applicant; and
 - 3.2. that any person may submit comments in writing on the application as part of the public participation process **within 90 days, on or before 22 August 2024**, for the Regional manager’s attention. It is emphasised that the DMR afforded interested and affected persons 90 days to object.

4. The Applicant, through its environmental assessment practitioner, Takalani Environmental Consultancy CC (hereinafter referred to as the “EAP”) posted a notice on or about 15 May 2024 somewhere in the Prospecting Area of 3,787 Ha, informing interested and affected parties (hereinafter referred to as “I&AP”) that –
 - 4.1. they are invited to register as I&AP’s’ ; and
 - 4.2. that the basic assessment report (hereinafter referred to as the “BAR”) will be made available on 14 June 2024 for comments until 15 July 2024.
5. For the purposes of this submission it is recorded that the EAP has requested that all comments on the BAR and draft environmental management programme report (hereinafter referred to as the “EMPR”) must be submitted by 15 July 2024. It is not understood in terms of which provision of the Act or Regulations this timeframe was set and the opinion is held that the Objectors were not bound by this timeframe. This is amplified by the fact that the comments on the prospecting right application are only due on 22 August 2024 as directed by the DMR.
6. Despite this the Objectors have however undertaken to submit their objection submission on or before 15 July 2024.
7. The purposes of this submission therefore are to –
 - 7.1. Object to the application for a prospecting right ; and
 - 7.2. Object to the application for environmental authorisation (hereinafter referred to as the “EA”) and the EMPR compiled by the Applicant.
8. It is also submitted that this submission should be read in conjunction with all other submissions, comments and objections submitted by other landowners in the vicinity of the Prospecting Area, and Interested and Affected Parties.
9. It must also be recorded that writer on 24 June 2024, requested the EAP for copies of the -
 - (i) Prospecting right application;
 - (ii) The screening report in terms of the EIA Regulations;

- (iii) The Prospecting work programme; and
- (iv) Technical and financial capabilities report,

The EAP responded on the same day with copies of only the screening report and the rehabilitation financial quantum. He however advised that “*Note Application and PWP was conducted by other consultant. We are only responsible with the conducting of Basic Assessment Reporting. Our client is copied on this mail, they will provide you with the requested remaining documents.*” “ Email attached hereto as **Annexure “STOC 2”**)

To this day, the Applicant has failed to provide the requested documents and the Objectors are at a disadvantage for not having perused these highly relevant documents.

HISTORY

10. It is the Objectors’ submission that before dealing with the application, the BAR and the draft EMPR the events preceding this application should be recorded.
11. Neither the Applicant nor the EAP made any references to the previous applications for the same prospecting right over the same area. It is clear that they misrepresented (through their silence) that there were other applications –
 - 11.1. The first application was made on 12 May 2023 under reference number WC 30/5/1/1/2/10435 PR. Due to public outcry, the Environmental Assessment Practitioner (EAP) at the time, Thevha Sustainable Services, withdrew from the application, which led to the application lapsing. This first application was made only for Silver and Gold prospecting. Tin was added to the subsequent applications.
 - 11.2. On 24 August 2023, a second application was made, under reference number WC 30/5/1/1/2/10447 PR. The newly appointed EAP at the time was McDonald Mdluli, from Lwethuma Environmental Consultants. This EAP also subsequently withdrew from the application, which again led to the application lapsing, due to the applicant not adhering to the Environmental Impact Assessment (EIA) timeframes.

- 11.3. On 4 December 2023, the third application was made under reference number WC 30/5/1/1/2/10458 PR. Although the DMR records contained the previous EAP's details, Mdluli confirmed that he was no longer involved in this matter. The EIA timeframes once again lapsed, although this time around the Applicant formally withdrew the application once the timeframes lapsed.
- 11.4. On 8 April 2024, the current application was made under reference number WC 30/5/1/1/2/10464 PR. According to the DMR the EAP's details on their SAMRAD system was Aluwani Maphana (EAPSA), although it later transpired that the EAP was in fact Takalani Environmental Consultancy.
- 11.5. It should be noted that only the latest application progressed to an attempt at public participation. On none of the previous applications was a draft BAR, or any documentation for that matter, made available to the public. Furthermore, the only application/project specific information at the Objectors' disposal was made available by the DMR, on specific request, during the 3rd application.
12. All three of the previous applications were poorly presented and were not supported by any prescribed information.
13. As far as the current application and supporting documentation are concerned it is recorded that it is difficult to comment on the documents because the information provided to explain the project was mostly general, and not sufficiently specific to make constructive and specific comment possible.
14. The Objectors fail to see how the DMR as the competent decision-making authority, if it duly applies its mind, would be able to even consider the Application and reach a decision. In fact it is the Objectors' submissions and prayers that the DMR must refuse the application outrightly.
15. It is a fact that the Objectors and all other I&AP's for more than a year now have been inconvenienced, frustrated and harassed by the Applicant's attempts to acquire a prospecting right and it is trusted that the DMR will once and for all put a stop to these attempts.
16. According to the Applicant the ultimate purpose of the prospecting is its importance "*in coming up with a decision to open a mine*". In addition it must inform the preparation of a prefeasibility study that includes "*Initial conceptual Mine Planning*". It is therefore

the Objectors' submission that the DMR in considering this application must also consider the feasibility of mining for an absent or non-existent mineral (based upon reputable geology evidence) in an active agricultural area located in an environmentally sensitive area. It is submitted by the Objectors that all the concerns expressed in this submission are relevant to both prospecting and mining and cannot be ignored.

THE APPLICATION

17. The Application was deliberately withheld by the Applicant, and it is accordingly impossible for the Objectors to comment on whether the application complies with section 16 of the Act.

18. It was noted that another objector, The *South2TrueNorth NPC* also explicitly requested the following on an urgent basis from the EAP (Objection attached hereto as **Annexure STOC 3**)
 - Acceptance letter by the DMRE Regional Manager.
 - Environmental Authorisation (EA) Application form.
 - Resolution by the applicant that the necessary authority has been obtained.
 - Regulation 2(2) diagram.
 - Prospecting work programme.
 - Documentary proof of the applicant's technical ability.
 - Documentary proof of the applicant's financial ability, including but not limited to the rehabilitation of environmental impacts.
 - Share register and share certificates of the applicant.
 - A list of existing rights and permits held by the applicant.
 - Proof of submission of a water use licence to the Department of Water & Sanitation, as required by the National Water Act, 1998.

This confirms that objectors in general did not have enough information to consider and comment on.

THE APPLICANT

19. The Applicant is Cienth (Pty) Ltd. It is a company –
 - 19.1. registered with the Companies and Intellectual Property Commission (CIPC) with registration number K2019132902;
 - 19.2. established on 22 March 2019;
 - 19.3. located in Gauteng;
 - 19.4. which had 5 directors, three directors resigned and one deceased.
 - 19.5. With the only remaining director Rosy Thobeka Mvala who became a director with effect from 26 April 2023.

According to the CIPC's records Ms Mvala is also the director of another 126 registered companies. (list of companies attached hereto as "**Annexure STOC 4**")

20. Whilst it is remarkable that the 29 years young Ms Mvala has the experience, expertise and time to serve as the director of 127 registered companies as it would require superhuman abilities to govern 127 companies.
21. What is also concerning is the lack of any credible evidence submitted in support of her company's documents, of her experience and expertise in the field of minerals exploration, extraction and production. In addition there is nothing to explain how she will be able to manage and oversee the activities applied for.
22. It has been noted that another company of hers, Nurulos (Pty) Ltd, has also applied for a prospecting right in the West Coast under reference NC30/5/1/1/2/13758PR). Another application met with severe community opposition.
23. Interesting also is that none of the Applicant, its director or its consultants have provided any evidence that they have any experience of the mining industry in the Western Cape or elsewhere.
24. It is also clear that whilst the EAP has prepared the BAR and draft EMP, he was not involved in the remainder of the Application and clearly only acted upon the instructions of the Applicant.

THE OBJECTORS

25. The Objectors comprise of –

- (i) The registered land owners of the Properties. It is repeated that none of them were identified by the Applicant or the EAP;
- (ii) 121 members of the Overberg Agricultural Association (list of members attached as **Annexure STOC 5**);
- (iii) Approximately 2,037 members of the Save the Overberg Coalition (list of members attached as **Annexure STOC 6** and a copy of its constitution is attached as **Annexure STOC 16**); and
- (iv) Numerous other objectors that submitted their objections directly to the EAP.

26. The list of Properties supplied by the EAP/Applicant is incorrect. Properties were included that are not part of the Prospecting Area and others that should have been included are not. The correct information regarding the registered owners is displayed as follows

SG Code & Farm number & name	Owner	Comments
C011000000003260000 FARM 326	Andre Wessels	
C011000000003270000 FARM 327	Erhardt du Toit	Part of portion 0 of 116 now
C011000000003400001 Portion 1 of FARM 34	Kosie van Zyl	
C011000000003300000 HANSIES KLOOF 33	Kosie van Zyl	
C011000000002700006 Portion 6 of LEEUWEN RIVIER 27	De Kock Agri	
C0110000000011400002 Portion 2 of SAND FONTEYN A 114	ND Fik	Not on EAP's MAP at all .
C0110000000011600000 ZOUTEKLOOF 116	Erhardt du Toit	
C0110000000011700003 Portion 3 of ELANDSKLOOF 117	Valerian van der Byl	
C0110000000011700004 Portion 4 of ELANDSKLOOF 117	AJ Scheuble	
C0110000000011700011 Portion 11 of ELANDSKLOOF 117	Agriwala	
C0110000000011700013 Portion 13 of ELANDSKLOOF 117	Agriwala	
C0110000000011700002 Portion 2 of 117	Kosie van Zyl	This is missing from the EAP's table

- (ii) to provide for role- players to voice their support, concerns and questions regarding the project, application or decision
- (iii) to provide the opportunity for role-players to suggest ways for reducing or mitigating any negative impacts of the project and for enhancing its positive impacts;
- (iv) to enable the person conducting PP to incorporate the needs, preferences and values of potential or RI&AP's into its proposed development that becomes the subject of an application for an environmental authorization (EA);
- (v) to provide opportunities for clearing up misunderstandings about technical issues, resolving disputes and reconciling conflicting interests;
- (vi) to encourage transparency and accountability in decision-making;
- (vii) to contribute toward maintaining a healthy, vibrant democracy; and
- (viii) to give effect to the requirement for procedural fairness of administrative action as contained in the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).
- (ix) PPP in this context includes, amongst others, placing a notice board, giving written notice, placing an advertisement, information sharing, holding public meetings etc.

29. If one has regard for the Applicant's PPP, the following must be recorded-

29.1. The EAP explained the details of the PPP in par 6.2 of the BAR.

29.2. Its methodology of notification (Page 27) is explained as -

- Cadastral search and Deeds search to identify farm portions
- Adverts and Site Notices to notify stakeholder.
- Distribution of BIDs with comments sheet requesting the recommendation of any other stakeholders
- Site Visit to consult with stakeholder.
- Community or Communities Identified and whether these parties are the landowner.

29.3. When the actual notification process as explained by the EAP is considered, the following is evident (it must be borne in mind that the DMR accepted the Application on 12 April 2024) –

- (i) The EAP does not know when it did the site visit. In paragraph e. on page 28 it is recorded that a site visit of the study area was done on 14 May 2024. In paragraph f. on the same page it is however recorded that the site was visited on 15 May 2024.
- (ii) The application was submitted on 8 April 2024, yet the EAP visited the site area for the first time 5 weeks later;
- (iii) A notice was placed in the local newspaper on 24 May 2024, 6 weeks after the acceptance;
- (iv) The so-called BID (background information document) was only provided to I&AP's on 14 June 2024, two months after the acceptance of the Application by the DMR;
- (v) No locality map was sent to I&AP's on 14 June 2024 as stated;
- (vi) Absolutely no consultations were conducted with stakeholders, least of all with the directly affected land owners;
- (vii) There is no evidence of any notifications sent to the registered land owners. In fact the EAP has not provided any details of who the registered land owners are. It must be recorded that the EAP pertinently stated that "*Cienth (Pty) Ltd obtained the details for each landowner. Each landowner will be contacted and informed during this process.*" In the absence of any evidence to the contrary this must be regarded as a gross misrepresentation;
- (viii) I&AP's only received information about the application (BID, BAR and draft EMP) after 14 June 2024 and then they were informed that their comments should reach the EAP by 15 July 2024;
- (ix) No copies of the deeds of the affected properties were provided;

- (x) No evidence was provided of the location of where the site notices were placed at the boundaries of the 3,787 Ha site area; and
- (xi) There is no evidence that all government departments were informed of the application via email.

30. Pursuant to the above factual recordals, there can be no doubt that the Applicant's PPP was inadequate to the extreme and it is typical of applicants and EAP's that have a complete disregard for affected land owners and communities, such as the Applicant and the EAP. It is clear that every attempt was made to bulldoze this application through the process to the exclusion and detriment of the Objectors.
31. It is the Objectors' information that not all I&AP who tried to register after 14 June 2024 did not receive confirmation of their registration or did not receive a copy of the BAR as advised by Advocate Pierre Rabie.
32. On its own, this failure by the Applicant and its EAP, merits a refusal of the Application.

BASIC ASSESSMENT REPORT (BAR) AND DRAFT ENVIRONMENTAL MANAGEMENT REPORT (EMPR)

33. After perusing the 186-pages BAR and EMPR it is clear that 90% of its content is a regurgitation of BAR and EMPR requirements set out in Appendix 1 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), Environmental Impact Assessment ("EIA") Regulations, 2014, simply converted into a pro forma template for prospective applicants by the DMR. See [nema_bar_and_emp_template.docx \(live.com\)](http://nema_bar_and_emp_template.docx.live.com) in this regard.
34. It is also clear that the EAP slavishly followed this template and completed it with irrelevant information without any reputable specialist reports as information source and then simply duplicated information on numerous pages.
35. It is clear that the BAR and EMPR was put together by someone who does not know the area and its occupants and who compiled it after a single site visit. It can be safely assumed that none of the Applicant, its director or the EAP are experts in geology, yet the area's topography and geology are described without any reference or credit to

specialist. In fact the part on the topography was copied from the Cape Agulhas Municipality's website.

36. Other examples of the fact that some of the contents of these documents was copied from other documents or applications, with no connection with the documents under discussion, are –
- 36.1. Page 18: “all iron ore deposits deposits [sic] will be targeted”. This application deals with gold, silver and tin ore.
 - 36.2. Page 19 : “*These will be analysed by electron microprobe for major and selected minor elements and the results will be interpreted to assess copper ore and heavy minerals potential.*”
 - 36.3. Page 19: “*a drilling program will be undertaken in order to delineate and give a preliminary assessment of the diamond potential of the deposit identified*”.
 - 36.4. Page 33: “*The Agulhas Plain and hills of Rûens are characterised by limestone, sandstone and conglomerate as illustrated on Map 2.*”. No trace could be found of this “Map 2”.
 - 36.5. Page 42: “*The establishment of a residential township of this nature, in the context of the surrounding land uses, is in line with the surrounding land uses.*”
 - 36.6. Page 44: “*Due to the scale and nature of the proposed development, the visual impact of the development on surrounding communities will be quite significant. Large portions of the application property can be seen from all cardinal directions.*” Clearly this statement cannot remotely apply to the subject matter of the Applicant's application.
 - 36.7. Page 92: “*This property will impose the greatest visual impact on the current landscape. Screening elements such as trees and berms, can soften the visual impact this development will have on the major roads which border the subject properties. Due to the nature of the proposed development and the surrounding land uses, lights will illuminate the area at night; however the intensity is not considered to be high as the point of source lighting is dispersed over large distances. The establishment of a residential township of*

this nature, in the context of the surrounding land uses, is in line with the surrounding land uses.

37. Although it is trusted that the DMR through proper perusal and consideration of the BAR and EMPR submitted, would find that there simply is not enough evidence contained in these documents upon which any reasonable and objective decision-maker could make a positive finding, the Objectors would nevertheless point out the following (all references to page numbers will be to the combined 186 page BAR and EMPR document):
- 37.1. The bulk of these documents are the contents of the templates provided on the DMR's website.
- 37.2. The EAP is not registered with EAPASA. He is reflected as an affiliated member (Page 11). According to the EAPASA website there are only two categories of EAP registration, namely Full EAP and Candidate EAP. There is no provision for any "affiliated membership".
- 37.3. Whilst the EAP summarises his past experience (which indicates considerable expertise), there is no mention whatsoever of prospecting or mining experience or expertise. Section 13(1)(b) of the NEMA Regulations requires EAPs to have the requisite expertise in specialist work and no such expertise is indicated in relation to prospecting
- 37.4. Par 3.2, page 16 proceeds on assumptions based on "similar projects undertaken by the Applicant" which can "be regarded as indicative of what will be under taken (sic)".
- 37.5. The application does not refer to any such similar projects undertaken by the applicant because no such projects exist.
- 37.6. Indeed, the applicant has failed to demonstrate any ability, resources, experience or expertise whether in relation to prospecting, mining or otherwise.
- 37.7. The application must fail for this reason alone.
- 37.8. Par 3.2.1 is vague and demonstrates a lack of knowledge or experience which would have enabled an assessment of access.

- 37.9. Par 3.2.2 fails to understand that the impact on water supply will be devastating because it will deprive farming operations in the area of necessary water and also local communities of water necessary for daily consumption. This applies equally to business and industry in the area.
- 37.10. Par 5.1.1, page 23, asserts that gold ore occurrences were known historically in the area concerned and this contradicts the introductory paragraph under section 3 and is, in any event, factually incorrect.
- 37.11. The application rests on the unsupported assertion that there is a need to ascertain information, being the occurrence of ore at the location. This asserted need is heavily outweighed by the adverse impacts on the environment and to the community inherent in the activities proposed. Closer analysis of the desirability of the activity reveals that the proposed activity is highly undesirable because, in addition to what is stated above:
- 37.12. the ecological integrity of the area will be irreparably harmed because, *inter alia*, ecosystems are threatened, sensitive, vulnerable, highly dynamic and stressed ecosystems are compromised, and conservation targets are prejudiced;
- 37.13. The site area at times comprise of 8 farms (Page 24) and at other times of 24 farms (Page 92). There is no consistency in describing the site area and, more importantly, an obvious failure to understand even the location or extent of the Property Area.
- 37.14. Although references are made to the Prospecting Work Programme, the Applicant failed to provide a copy of it to the I&AP's.
- 37.15. The EAP tried its best to assure that the only invasive prospective method would be drilling. Despite this assurance it is clear that there will also be a further invasive method namely "trenching". In terms of Regulation 7 of the Regulations under the Act, "trenching" is an "invasive prospecting activity. On page 13 the EAP confirmed "After soil geochemical and geophysical targets are generated *a trenching or pitting exercise will be done on the anomalies to determine the sidewall properties, profiles and average grades* and to do drill-hole targeting". (Own emphasis). This important invasive activity is not discussed, at all.

- 37.16. Apart from the fact that the location of the intended drilling holes cannot be provided over the 3787 Ha area, it is also not clear how many holes will be drilled. On page 14 the EAP recorded that approximately 25 drill-holes totalling 2,500 meters would be drilled. He then continues to record further that a further 50 drill-holes totalling 5,000 meters may be required. This brings the total number to 75 drill holes totalling 7,500 meters. 75 drill-holes to look for non-existent viable mineral deposits or resources.
- 37.17. The introduction to paragraph 3, page 13 of the BAR asserts that the ore potential is relatively unknown. According to Sarien Lategan (a Geographer working in the field of environmental assessment and geospatial analysis) *this statement is incorrect as "the area has been surveyed in detail by the Council for Geoscience and the information available in the form of the 1:250 000 Geological series, the 1:50 000 survey sheets and the Explanation sheets. A proper Desktop study as proposed as Phase 1 (p.13) should have been undertaken before this application was lodged as it would have shown that sufficient information is available to consider the need for further prospecting. It is held that such a study will indicate that further exploration for the required minerals is a futile exercise. The geological mapping also already exists in GIS format and any gaps can easily be added from the hard copy survey material, by a skilled GIS specialist."*
- 37.18. Nothing is advanced in support of the contention that the area is relatively unknown.
- 37.19. Paragraphs c and d, page 13 are silent on the duration of these activities.
- 37.20. It is apparent from par 3.1 that the area to be disturbed would cover some 4 000 square meters which because of its sheer size would obviously result in a radically adverse impact on the environment. This alone tips the scales of need and desirability against the application.
- 37.21. On page 15 it is stated that over an area of 3,787 Ha only 300 m² would be for access roads. Given a road width of 3 m it means the total length of these access routes would amount to a mere 100 m of the 3,787 Ha.

- 37.22. The EAP has no idea of the area's hydrology and admitted that. He does not know if there are any boreholes on the site but despite this then recorded that *"Water will be trucked from the nearby borehole to the identified drill sites.)* Page 16.
- 37.23. On page 22 the only motivation for the need and desirability of the prospecting application is given as *"very important in coming up with a decision to open a mine"*. Despite the fact that the locations of the drill-holes cannot be given, the EAP then boldly states that the *"planned drilling positions are located on the rocks forming part of the Bushmanland Group and it is important that the drill holes are located on these sites."* The Objectors were given no clue about where these "rocks" are located. In fact, the EAP is totally incorrect, the Bushmanland Group is much older and found in Namaqualand. The correct name for the rocks in question is the Cape Supergroup, or more accurately the Bokkeveld Group.
- 37.24. On page 23 it is explained that the preferred site was targeted because *"historically Gold Ore occurrences are known in the area with a mine within 12km from the site area."* The Objectors will deal below with this so called "gold mine". The question, however, is why prospect for gold in an area 12 km removed from where gold previously occurred?
- 37.25. On pages 23 and 25 the EAP recorded that the technologies proposed *have been chosen based on the long-term success of the company in terms of their prospecting history."* The Objectors could not find any evidence of the Applicant's successes in their prospecting history since 2019 when it was established or since 2023 when the current director took over.
- 37.26. On page 26 the EAP recorded that if prospecting is refused it will result *"in a significant loss to valuable information regarding the mineral status present on these properties."* It will be shown that according to the Council of Geoscience as well as an experienced geologist, there are no traces of any minerals present on these properties.
- 37.27. Par 6.1.1, page 24 refers to "the presence of the old gold mine" which contradicts the introductory paragraph to section 3 and is, in any event, factually incorrect.

- 37.28. Par 6.1.2 appears to be disconnected from the facts. It relies on the long term success of the “company in terms of their prospecting history”. “the company” refers to “the applicant”. The applicant has no “long term” existence, no prospecting “success” and no prospecting “history” at all. The application accordingly provides no realistic assessment of the activities to be undertaken.
- 37.29. Par 6.1.4 is equally inconsistent with the facts. There is again reference to the “prospecting history” which does not exist.
- 37.30. Par 6.1.6 relies on a loss of valuable information regarding the mineral status. This status is well known. There is insufficient ore to justify the proposed activities. There is accordingly no loss to be feared.
- 37.31. In any event, the reliance is opportunistic and illogical. If the information was necessary, then every inch of unoccupied or undeveloped land throughout the entire Republic of South Africa would have to be prospected in order to determine its mineral status.
- 37.32. Par 6.2, page 26 fails to demonstrate any genuine attempt to secure public participation.
- 37.33. There is no evidence at all of interaction with organs of state and with adjacent and non-adjacent landowners. This is so because no such interaction took place.
- 37.34. There is no evidence of interaction with the municipality because no such interaction took place.
- 37.35. The assertion that each landowner would be contacted and informed during the process turns out to be entirely incorrect and there has been no such interaction with the landowners.
- 37.36. No information is given about the site visit on 14 or 15 May 2024 and the applicant is invited to disclose at least which property was visited. Until such disclosure, it is denied that there was such a site visit. There is no evidence of the placing of the advertisements in (f) or the provision of draft copies of the EMP.

- 37.37. The bald nature and paucity of content of the table in par 6.2.2 demonstrates the obvious lack of engagement with I&APs.
- 37.38. This failure to give notice deprives the public of its right to participate particularly when effective notice can readily and inexpensively be given.
- 37.39. Par 7.1.2, Page 32, assumes that the land is all used for crops farming based upon a confirmation given during the alleged site investigation process (about which no information is given). It is evident from Par 7.2.2 that no proper assessment has been made of agriculture in the area concerned. For instance, there is no mention of fig or grape farming or wine estates, ecotourism or hospitality operations.
- 37.40. This paragraph also seeks to undermine the viability of agriculture in the area concerned on the illogical basis that these are high risk activities and very easily result in failed crops in the event of drought, hailstorm or climatic extremes. This is illogical because all agriculture is susceptible to these factors and therefore all agriculture would have to come to an end on this basis.
- 37.41. In any event, it hardly behoves the application to rely on uncertainty when the very purpose of its project is to address an unknown and is therefore based on the premise of uncertainty.
- 37.42. Moreover, if the rights are granted the local community stands alone in carrying the risk.
- 37.43. No evidence is advanced, or information given which might support the notion that prospecting and later mining would drive growth and employment, to the contrary, the report concedes that the project will not result in local employment.
- 37.44. Par 7.2.6.2, page 41, in two short paragraphs seeks to cover the essentially important aspect of fauna. This is superficial and inadequate and provides nothing on which objectors might comment.
- 37.45. More importantly, however, this does not deal at all with the impact of the proposed activities on fauna, and by itself makes the application irreconcilable with NEMA.

- 37.46. This demonstrates a striking feature of the BAR and it fails to put up facts or information and relies on assumptions and guesswork. The result is that there is little for the authorities to consider or for IAPs to assess.
- 37.47. The table in par 8, page 44 recognises 31 adverse impacts which all fly in the face of the fundamental principles and objectives of the scheme. The methodology is neither empirical nor scientific. Nor is it motivated. These conclusions can therefore not be relied on.
- 37.48. On page 60 the EAP recorded that his close corporation, Takalani Environmental Consultancy CC, applied for a prospecting right over the prospecting area. This is news to the Objectors who are under the impression that the Applicant applied. What is also important is the fact that it applied based upon the outcome of a desktop investigation that the possibility to encounter further minerals (gold, silver and tin ore) on the affected properties is very high. No evidence of this revealing desktop investigation was provided. It therefore is also clear that phase 1 of the intended prospecting was actually already done and completed, with no positive results.
- 37.49. From pages 54 to 59 the EAP provided so-called "Quantitative Ratings" of P (positive) and N (negative). It however then proceeds and gave 30 ratings ranging between -11 to +16 without explaining these numerical ratings.
- 37.50. Par 10, page 60 acknowledges that there is no more than "the possibility" of identifying minerals in the prospecting process, thus undermining the biased approach to risk in par 7.
- 37.51. Par 10.1 recognises a negative impact on communities and only for such negative impacts.
- 37.52. This also recognise that no employment opportunities for local and/or regional communities will result from the prospecting activities.
- 37.53. Par 10.1.1 shows the inadequacy of the assessment because it is well established that water courses in the area exist.
- 37.54. Para 10.1.2 and 10.1.23 recognise as negative impacts.

- 37.55. None of the purported mitigations in Par 10.2 are demonstrably effective and they therefore amount to no more than speculation.
- 37.56. In Par 10.1.1 on page 61 the EAP stated that no evidence was noted “*by the botanist and EAP’s on site*”. It is not clear to whom the EAP refers since no reports by said botanist and/or EAP’s were provided.
- 37.57. Furthermore, the EAP states as a fact that because no “evidence of any watercourses was noted it is considered unlikely to be a considerable ecological constraint due to the arid nature of the climate classification, sandy substrate and low rainfall in the area.” This according to the Nuwejaar River Nature Reserve is untrue. It is highlighted in *the Environmental Screening Tool report that the Aquatic Biodiversity Theme in the proposed area is of Very High Sensitivity. The Kars River, the wetlands along this river, and the Heuningnes River, which would all be impacted by contaminated water from the mining activities, are all listed as Critical Biodiversity Areas (river, wetlands and estuary). This river and the affected wetlands are also listed as National Freshwater Ecosystem Priority Areas, a government-run initiative including SANBI, the Water Research Commission (WRC), Department of Forestry, Fisheries and the Environment, the Department of Water and Sanitation, the South African Institute of Aquatic Biodiversity (SAIAB) and South African National Parks (SANParks). NFEPAs have been identified because of the importance of conserving them. We can therefore not overstate the importance of preventing any activities that could threaten these vital water courses. Despite this importance, no mention is made of these in the BAR. What’s more, the high rainfall experienced in the last three years highlights the interconnectedness of the river systems and wetlands in this area. This dramatically increases the risk of contamination of water courses well beyond the direct mining footprint.*”. Submission by the Nuwejaars River Nature Reserve is attached as **Annexure STOC 7** This submission concurs with submissions made by other ecologists referred to.
- 37.58. Elsewhere in the BAR the Prospecting Area is described as agricultural in nature. On page 61 however the EAP described the site and that of the surrounding area as “wilderness”. In other words “an uncultivated, uninhabited, and inhospitable region” as wilderness is commonly defined. This shows an alarming ignorance about the Prospecting Area.

- 37.59. On page 62 reference is made to the noise impacts of site fly-overs that could affect game farms in proximity to the Prospecting Area. It is recorded by the Objectors that there are no game farms in the area. The closest would be in the Nuwejaars Rivier Special Management Area.
- 37.60. The steps referred to in this par 11, page 66 are manifestly inadequate and come down to undertakings to consult in the future.
- 37.61. This demonstrates what is in any event admitted: and that the assessment is based on nothing more than a desktop investigation.
- 37.62. It follows that the information contained in the table is of no use.
- 37.63. On page 67 the EAP confirmed that a site visit was undertaken on 14 May 2024 to *“ensure that the information gathered as part of the desktop investigation reflects the current status of the land”*. If the EAP refers to the information provided in the BAR and EMPR then it is clear that he has failed miserably in his task.
- 37.64. From pages 69 to 91 the EAP provides tables of identified impacts and to calculate the significance of these impacts. No explanation whatsoever is given not only in respect of the recorded significance ratings but also the colour coding of the lines and columns of the tables. It might make sense to the EAP and DMR, but certainly not to the Objectors that needed to be informed who remain uninformed and therefore unable to comment..
- 37.65. On page 91 the EAP also states that no specialist reports are provided nor were any studies conducted for the Application. This would mean that all the information provided in these documents was within the EAP’s knowledge, experience and expertise. According to the screening report submitted by the EAP on request on 24 June 2024, no less than 9 specialist assessments of were identified for inclusion in the basic assessment report. It was also stated that it is the responsibility of the EAP to confirm this list and to motivate in the BAR, the reason for not including any of the identified specialist studies including the provision of photographic evidence of the site situation. These instructions were all ignored by the EAP.
- 37.66. Par 12.3 on page 96 lists 7 potential negative impacts and risks of the proposed activity. Not a single positive impact was listed.

- 37.67. Par 13.1, page 98, sets out the applicant's reasons why the activities should be authorised and is confined simply to the potential loss of valuable information regarding the mineral status of the properties if the application is not granted. When balanced against the numerous negative impacts identified by the applicant itself, this reason is manifestly outweighed.
- 37.68. Par 13.2 suggests conditions which should be imposed to mitigate negative impacts. These conditions are patently inadequate and all of the consequences prohibited in the founding principles will follow if only these conditions are imposed
- 37.69. In par 12.5 and 13.2 (pages 97 and 98) it is suggested by the EAP that it should be a condition of authorisation that the Applicant may not undertake any activities "*in the pans*". The Objectors are not aware of any pans in the intended prospecting area.
- 37.70. In par 13.1 the EAP, without providing any reasons or facts, expressed the "opinion" that the prospecting activity "may be authorised". Based upon this "opinion" it is then recorded that "*the site is therefore regarded as the preferred site and alternative sites are not considered.*" Not even the site of the old "mine" 12 km away.
- 37.71. In par 15 on page 99 the financial provision for rehabilitation of the prospecting areas is given as subtotal 1 of R82,970. On page 103 there is then a subtotal 2 of R46,275. No one then has any realistic idea of what the financial provision for rehabilitation should be. It is highly unlikely that the drilling of 75 drill-holes could be rehabilitated with R46,000 or R82,000. It would also appear that the EAP used the DMR's 2012 finance provision guidelines. We are in 2024.
- 37.72. In paragraph 16.1.1 the EAP recorded that "*No specific report was generated for the purposes of the socio -economic conditions*". He then inexplicably continued and stated, "*All findings are presented hereafter*" without any explanation where these "findings" actually came from. The EAP then proceeds and list 5 negative community impacts, including impacts upon animals breeding practises.

- 37.73. Notwithstanding that the assessment in par 16, page 106 of socio economic impacts is entirely cursory the report nevertheless identifies five fundamental impacts on local communities but fails to provide adequate mitigation.

The EMPR

- 37.74. In par 1.4.2 on page 109 the EAP states it as a fact that the Applicant will be allowed to abstract 75 m³ of groundwater in the Prospecting Area without a water use licence. Given that the prospecting area is 3,787 Ha this means that the Applicant, according to its EAP, would be allowed to abstract 268,025 m³ ³ of water without the requisite license, a highly implausible proposition. It is also stated that this abstraction is generally authorised by the Department of Water and Sanitation (DWS). It is also recorded that discussions on this were held with the DWS. No information on these discussions was provided.
- 37.75. It is further recorded that based upon the DWS' opinion on the intended soil sampling in river beds a water use licence may be required. The EAP did not provide any information of which river beds will be sampled nor if application will be made for a water licence.
- 37.76. The contents of the tables on the following matters from page 112 – 167 constitute a copy and paste exercise which provides no meaningful information that could be considered –
- (i) Table 12: Impacts to be mitigated in their respective phases;
 - (ii) Table 13: Impact management outcomes; and
 - (iii) Table 14: Impact management actions.
- 37.77. Conspicuously absent from these tables are any references to or discussion of the invasive trenching activity that will be undertaken by the Applicant.
- 37.78. It would also appear that keeping prospecting activities clear from pans or nearer than 32 m from a river, is done not from an environmental perspective but only to “*avoid the need to apply for a section 21(c) and (i) Water Use License.*” It can be safely assumed that if the opportunity presents, the Applicant will prospect in these areas.
- 37.79. The EAP must “*confirm specifically that the environmental objectives in relation to closure have been consulted with landowner and interested and*

affected parties.”. It is recorded that this was not done. Soothing his conscience on this, the EAP merely recorded that a BAR and EMP will be made available. This was done on 14 June 2024. No consultation took place between 12 April and 14 June 2024, despite the EAP’s stated undertaking of meeting with the land owners concerned.

37.80. The EAP did not provide any rehabilitation plan since it did not know the location and extent of the soil sampling and drill sites. Again no mention is made of trenching.

37.81. In par 2.1.6 on page 172 the EAP could not confirm that the financial provision will be provided as determined. Further it was stated that the current expenditure provided for in the prospecting work program (hereinafter referred to as the “PWP”) did not include the calculated financial provision because *“these values were not available at the time of the submission – into the Prospecting Work Program prior the decision by the DMR should this decision be positive.”* This statement does not make any sense at all.

37.82. On page 185 in the “Undertaking” the EAP confirmed –

- (i) The correctness of the information;
- (ii) The inclusion of inputs and comments from stakeholders and I&AP’s
- (iii) The inclusion of inputs and from the specialist reports
- (iv) that the information provided by the EAP to interested and affected parties and any responses by the EAP to comments or inputs made by interested and affected parties are correctly reflected herein.

These confirmations were done under signature of the EAP on 14 June 2024.

37.83. This is a gross misrepresentation made under signature, because-

- (i) Information is incorrect as shown in the preceding paragraphs;
- (ii) There are no inputs and comments by I&AP’s included
- (iii) There are no specialist reports; and
- (iv) No information was provided by the EAP to I&AP’s nor any responses by the EAP.

38. The Objectors also had sight of the inputs and comments on the BAR and EMPR from experienced ecologists. It is recorded as follows:

The Overberg Renosterveld Conservation Trust via its CEO, Dr Odette Curtis Scott (submission and detailed CV is attached as **Annexure STOC 8a and 8b**, respectively)

38.1. *“The BAR is fatally flawed, due to the total absence of specialist studies, as deemed necessary by the screening report”;*

38.2. *“Due to the total lack of consultation with specialists, the BAR reflects that the EAP has very little understanding of the local landscape and the uniqueness of the area, which, despite being dominated by large-scale agriculture, contains some of the most threatened habitats on Earth: With some of the largest and most intact remaining remnants of these included within the proposed prospecting footprint. Yet the relevance of the presence of these within the proposed prospecting area is entirely absent from the BAR”;*

38.3. *“It has already been demonstrated by several local expert geologists, that this area is not economically viable for a gold/silver/tin mine. Thus, the necessity of additional studies, in the hope that they will suggest otherwise, seems superfluous. The DMRE and the applicant have surely consulted these existing studies?”; and*

38.4. *“The tables included in the BAR, from page 45 onwards, that summarise the EAP’s conclusions on the potential impacts and their severity, are confusing. The meaning of ‘irreplaceable damage’ is also unclear – should this not be ‘irreparable damage?’. Either way, the ratings are mere conjecture, based purely on a subjective and uninformed opinion. They are completely lacking in any science basis, as the science in this report is completely absent (due to the dearth of specialist reports). They are also contradictory – example, on several occasions, the ‘reversible column’ is given a rating of ‘partially reversible’ but the same impact is then given a ‘no’ for ‘irreplaceable damage’ – this does not make sense: If something is only partially reversible, then the damage is permanent.”*

Dr RE Simmons (Avian Specialist and Honourary Research Associate of the Fitzpatrick Institute, University of Cape Town)

38.5. *“It looks as if the author has no experience in this field, as it contains no specialist reports, provides unreadable (out of focus) maps and completely*

omits some critical environmental sections. To disturb listed threatened species is also unlawful, as highlighted below, and thus the application is fatally flawed.”

- 38.6. “There are so many flaws in the report that indicate that it does not meet the standards of a typical BAR for such a controversial application as that proposed by Cienth (Pty) Ltd to prospect and mine in some of the last remaining pristine patches of Critically Endangered renosterveld in the world.”

Dr M Murgatroyd, HawkWatch International

- 38.7. “In opening the report states that prospecting or mining rights must be granted if they “will not result in unacceptable pollution, ecological degradation or damage to the environment”. These factors have not yet been assessed in the BAR and potential impacts have been vastly underestimated.”
- 38.8. “Where are the details on planned drilling locations? The proposed drilling locations are not actually given in the report, thus what are we assessing here? These need to be provided. Furthermore, the extent of drilling activities has been underestimated at 0.3 Ha, but up to 75 holes may be drilled, which would equal 0.004 Ha per hole, i.e. 20x20m each, while I imagine the extent of damage to the environment will far exceed this area. Where is the map of environmental sensitivities?”
- 38.9. “A map of the relevant biodiversity information and conditions must be provided as an overlay map on the property/site plan. The Map must be attached to this BAR as Appendix.” This component of the BAR is also missing and has clearly not been assessed.”
- 38.10. “Colour photographs of the site that show the overall condition of the site and its surroundings (taken on the site and taken from outside the site) with a description of each photograph. The vantage points from which the photographs were taken must be indicated on the site plan, or locality plan as applicable. If available, please also provide a recent aerial photograph. Photographs must be attached to this BAR as Appendix. The aerial photograph(s) should be supplemented with additional photographs of relevant features on the site. Date of photographs must be included.” Also missing from the BAR.”

38.11. *“The absence of Specialist Reports, stakeholder consultation, and more specifically landowner consultation, at this stage raises concerns over the applicant’s ability to robustly assess risk, and this raises the even bigger concern over the impacts which might occur if a full mining license were ever granted to this applicant in the area.”*

(own emphasis)

39. Mrs Elsaine Rabie, an environmental lawyer also identified the following shortcomings (submission attached as **Annexure STOC 9**)

39.1. In the EMPr:

- (i) An Illegible Composite Map;
- (ii) Closure objectives not adequately addressed;
- (iii) Copy and paste errors;
- (iv) Ambiguities, vagueness and contradictions;
- (v) Potential impacts are not mitigated adequately or mitigated at all. No specialist studies were conducted to support mitigation measures;
- (vi) Measures identified by the EAP to rehabilitate the environment are to remain within the ambit of the Prospecting Works Programme (PWP) and Environmental Authorisation. These measures are insufficient, as no PWP have been annexed to the draft BAR and EMPr, for input by the public; and
- (vii) Undertaking by the EAP not made under oath or affirmation.

39.2. By the EAP-

- (i) The EAP does not have the required expertise (Reg. 13(1)(b));
- (ii) The EAP failed to ensure compliance with the Regulations (Reg. 13(1)(c));
- (iii) The EAP failed to consider the required guidelines (Reg. 13(1)(b));
- (iv) The EAP failed to provide registered I&APs with all the material information in its possession, that may influence the decision of the competent authority (Reg. 13(1)(f));
- (v) The EAP failed to provide all potential or registered I&APs with access to all information (Reg. 40(2)(d));
- (vi) The EAP failed to consult with landowners, occupiers, persons in control of the land, or adjacent thereto (Reg. 41(2)(b)(ii)); and

- (vii) The EAP failed to facilitate participation in such a manner that all potential or registered I&APs are provided with a reasonable opportunity to comment on the application (Reg. 41(6)(b))

39.3. In the application as a whole-

- (i) The draft BAR contains illegible information;
- (ii) The draft BAR contains no attachments, although reference is made thereto in the BAR;
- (iii) The PWP was not provided to registered I&APs, which prevents I&APs from commenting thereon. The withholding of crucial information is a fatal flaw in the application;
- (iv) The Applicant failed to appoint specialists to conduct the required specialist studies as identified in the EIA screening report. This is another fatal flaw in the application, as the competent authority will be unable to make an informed decision, in the absence thereof; and
- (v) Public participation has not been conducted in accordance with the regulations and/or guidelines, nor in a manner which provides all potential and registered I&APs with a reasonable opportunity to comment on the application, which contravention is another fatal flaw in the application.

39. It therefore is the Objectors' informed opinion that the BAR and EMPR are fatally flawed, not well researched at all and must be regarded as documents haphazardly put together to satisfy the selfish interests of the inexperienced Applicant.

THE SUBJECT PROPERTIES

40. On its website, the Coalition describes the surrounding area as follows.

40.1. The Overberg, in the Western Cape of South Africa, is well known for its rolling hills, wonderful beaches, picturesque towns and incredible natural world. The Overberg stretches from the Hottentots-Holland mountains in the west, to just past Swellendam in the east. Towns here include Bredasdorp, Napier, Hermanus, Caledon, Grabouw, Swellendam and Cape Agulhas. Around 360 000 people call this district home. That equates to around 92 000 households.

- 40.2. Agriculture is the backbone of the district. While farming contributes around 15% to the region's GDP, the jobs it creates exceeds this significantly, amounting to 21%. That number is even higher in terms of informal employment – reaching nearly 29%.
- 40.3. The region that has been included in the prospecting application is particularly important in terms of grain farming. Here wheat, barley and canola are planted – serving as the breadbasket for the Western Cape.
- 40.4. Livestock (sheep and cattle) are also farmed here as part of a rotational farming system. There are also a number of wine farms very close to the proposed prospecting area. There are therefore significant concerns around the impact of prospecting and subsequent mining on these agricultural activities, and the jobs they create and on the potential additional fallout, such as the impacts of dust on crops.
- 40.5. Tourism is an equally vital sector for the Overberg. From the wine farms to the incredible vistas across the landscapes, more than 200 000 recorded visitors flocked to the Overberg in 2022. And they contributed 15% to the GDP in the same year. More than 10% of tourists said they visited the area to enjoy the scenic, relaxing drives. Nearly 20% came to the district to enjoy the cuisine – with a strong focus on enjoying the wine routes here, including the Agulhas Wine Route. However, this route is in jeopardy as a direct result of the prospecting application submitted by a Gauteng based company.
- 40.6. Entire ecosystems now face extinction. Aside from the green rolling hills that feed a nation, there is also abundant nature in the Overberg. In the mountains and valleys across the district, incredible habitats support large communities of life, from the Cape leopard that moves silently across the mountains, to the tiny pollinators that rely on these natural landscapes. Even in the waterscapes, Endangered freshwater fish species occur that are found nowhere else on Earth and would most certainly leap closer to extinction as a result of these proposed activities.
- 40.7. In the areas proposed to prospect for minerals, some of the most threatened habitats on Earth are found: Critically Endangered Western and Central Rûens Renosterveld are found on parcels of land between the farming

landscape. Only 5% of these renosterveld types remains today – therefore losing any more of this habitat could result in a likely extinction. Endangered Elim Ferricrete Fynbos is also found on the mountain slopes where prospecting has been proposed. Only 5% remains of this diverse fynbos habitat too.

- 40.8. The future of the Overberg is also closely connected to the availability of water. Healthy groundwater is essential to society. Across the Overberg, there are many intricate river systems that are connected, feeding each other and the groundwater that we rely on. For example, close to the most southerly tip, the Nuwejaars wetlands make up the largest wetland system in South Africa. These waterscapes feed entire communities downstream, including the towns of Agulhas and Struisbaai. What's more, they also form part of the National Freshwater Ecosystem Priority Areas. These waterscapes are connected to rivers further inland, including the Kars River. The Kars River, however, is at the heart of the proposed prospecting operation.
41. Based upon the aforementioned it is the opinion of the Objectors that any prospecting activities would not only have a detrimental effect on the farming activities, and the lives of all associated with the Property, but it also would be in direct conflict with the nature and character of the area. There simply is no need or desirability as far as the community is concerned for the envisaged activity. As a result the application should not even be considered.

ZONING OF THE PROPERTIES

42. All the farms and land in the Prospecting Area are zoned as agricultural.
43. This zoning promotes and protects agriculture on farms as an important economic, environmental and cultural resource. Limited provision is made for non-agricultural uses to provide owners with an opportunity to increase the economic potential of their properties, without causing a significant negative impact on the primary agricultural resource.
44. The zoning or land use of the affected farms are governed by the provisions of the Cape Agulhas Municipal Land Use Planning By-law, 2022 (Planning Bylaw) and the

Cape Agulhas Zoning Scheme By-law, 2022 (Zoning Scheme). These statutory provisions provide as follows:

- 44.1. The agriculture land use description means “*the cultivation of land for raising crops and other plants, including plantations, the keeping and breeding of animals, birds or bees, stud farming, game farming, intensive horticulture; intensive animal farming; a riding school or natural veld, and it does not include aquaculture, an abattoir, a farm shop, an animal care centre, any mining activity”*”
- 44.2. Although there is not specific reference to prospecting per se, it clearly is not a permitted agricultural land use. In the Act “*mining is defined as any operation or activity for the purposes of winning any mineral on, in or under the earth, water or any residue deposit, whether by underground or open working or otherwise and includes any operation or activity incidental thereto*”;
- 44.3. The zoning scheme specifically makes provision for a separate land use for “mining” that is defined as the extraction of raw materials from the earth as intended to be done by the Applicant.
- 44.4. Section 102 of the zoning scheme provides that when applying for a rezoning to the Mining Zone, the owner shall provide proof to the satisfaction of the Municipality that the proposed operation complies with national and provincial statutory requirements applicable to mining, including but not limited to the permits and licences necessary in accordance with the Act. Attention is drawn to two specific matters-
- (i) The owner of land to be rezoned must provide proof;
 - (ii) of any permit or licence issued under the Act. This is not confined to mining only, but also includes prospecting.

In plain language this means that the Applicant must acquire a right and then needs the land owner to apply for the rezoning.

- 44.5. It therefore follows that application must be made in terms of section 15 of the Planning By-law to either rezone the agricultural land use to mining or to apply

for consent use from the Municipality to allow prospecting in an agricultural zone.

- 44.6. Any land use in contravention of the applicable sections is an offence and may result in a fine or imprisonment or both. The municipality under section 161 is entitled to interdict anyone acting in contravention of the permitted land use.
- 44.7. In other words even in the event that a prospecting right is granted, the Applicant will have to procure that the land use permits prospecting.
- 44.8. In terms of section 13(1) of the Planning By-law only *“The owner or his or her agent may apply in terms of section 15(2) to the Municipality for the determination of a zoning for land.”*
- 44.9. It is recorded that the land owners will not apply for any land use that would allow prospecting nor will they authorise any agent to do it on their behalf.
45. It therefor is clear that the affected areas’ permitted land use does not include prospecting activities, nor would it be amended to allow for such activities.

MINERALS ON THE AFFECTED PROPERTIES

46. On pages 33 and 34 of the BAR the EAP attempted to provide a summary of the area’s geology. This is however of no value since it is a general description of the Agulhas Plain and the hills of Rûens. Apparently, these areas are characterised by limestone, sandstone and conglomerate on a certain “Map 2”. This map could not be found in the BAR.
47. As motivation for its search for gold, silver and tin it is stated that *“The structural features formed due to the deformation of the Cape Fold Belt formed favorable trap sites for quartz veins in the fold axis of synforms and antiforms. These quartz veins have historically been known to contain gold and silver mineralization.”* This general comment without any specifics or justification, constitutes the sum total of the EAP’s geology motivation.
48. References were also made to a so-called “gold mine” at Hansiesrivier. Despite this the Applicant applied for prospecting rights on a site which is 12 km away from this ancient “gold mine“. It is recorded that *“Based on the evidendence [sic] of the*

presence of the old gold mine, the possibility to encounter further minerals reserves on the properties subject to this Prospecting Right Application was identified.” By excluding this “mine” the Applicant in fact acknowledges that there is no longer any interest in the occurrence of gold at that site.

49. The Objectors did their own desktop studies in this regard and approached the Council of Geoscience. On 28 June 2024, the Council provided a “*Schematic Mineral Points Map of Remhoogte 120 and adjacent farms*”. According to this mineral points map (attached hereto as **Annexure STOC 10**) there are not any minerals even close to the Prospecting Area. In response to a request for a geological mineral map the Council informed that “*The geological, mineral map comes with lithologies, mineral points if there are any on the area and adjacent, mineral fields etc.... So since your farms have no minerals, it will not help at all*”

50. The Objectors also obtained an opinion from a reputable geologist JA Malan, BSc Hons (Geology), MSc (Sedimentology), MBA (opinion attached hereto as **Annexure STOC 11**). The salient points of the opinion are as follows:
 - 50.1. His opinion is based on in-field mapping, rock descriptions, measurements and analysis undertaken by him in 1984 personally working as a field geologist for the Council of Geoscience. Further to this geology facts, data, interpretation, references and opinions of several now retired Council of Geoscience geologists, were taken into consideration.

 - 50.2. The geology of the Napier area and that of the farms mentioned in the application consists of the Lower Bokkeveld shale units and silt- and sandstone units that form the surface geology of the area. Some trending faults can be mapped with certainty in the Table Mountain rocks of the mountains and less so in the Bokkeveld rocks of the Rûens. The Hansiesrivier gold occurrence is located on such a fault line.

 - 50.3. Only localised spots of gold, silver and tin were ever found scattered throughout the Western Cape Province and none of any commercial size.

 - 50.4. Several gold prospecting sites occur in this part of the Overberg. These are on Klein Zandrif (west of Bredasdorp), Bloemfontein (south of Napier), Fairfield and the one on Hansiesrivier. The latter remains the best example of

how the fortune hunters followed quartz veins in search of unfound richness during the gold rush of the 1870's.

- 50.5. On Hansiesrivier the entrance to the abandoned gold mine can be found at the base of the southerly sloping hill next to the west-east running Hansiesrivier creek. In the abandoned mine one can follow the 0,8 m wide mined out fractured milky quartz vein over a distance of some 120m. The vein contains some very low grade of less than 0.5 gram/ton gold, ferruginous and magnesium oxides and traces of pyrite (fool's gold). The previous owner of Hansiesrivier had a sample assayed with a result of 0.3 grams per ton compared to the average yield of 15 grams of gold per ton in the Witwatersrand Reef.
- 50.6. Evidence of gold on Hansiesrivier are known for years as reported in The Southern Post (1997) and Overberg Village Life (2007) giving a good description of the 1870-80's gold fever that gripped the country following the Witswatersrand gold discoveries. These refer to the "Overberg Bonanza!" and "Napier's forgotten gold mine" none leading to any real gold finds in the Rûens area near Napier.
- 50.7. The reported gold, silver and tin deposits in the Western Cape are small and have mostly been worked out with a very low potential for further exploitation. Some gold within the quartz vein on Hansiesrivier (less than 0.5 gram per ton) has been known for years. There are no signs of any silver or tin finds or occurrences in the area of interest. Neither do the surrounding Table Mountain rocks contain any of the to-be-explored-for minerals. There is also no evidence of any hydrothermal activity to form any ore deposit of any size or importance in faults crossing the Application area.
- 50.8. In his experienced opinion the chances of finding any mineable commercial gold, tin or silver ore in the Prospecting Area are zero and "*remain just that of academical interest*"
- 50.9. Ironically the map section provided by the EAP on page 34 shows some gold anomalies in a very small area. According to the geologist, S Davey, an "anomaly" at most is "*just a sniff of gold in one or two samples, but no geological or grade continuity has been proven, It could also be a very small & localised occurrence with no real economic significance.*" It must also be

remembered that this “anomaly” appeared decades ago 12 km away from the Prospecting Area.

- 50.10. In South Africa renowned for its gold resources in Gauteng, it is implausible that the major gold mining companies would have left alone any noteworthy gold resources or reserves if that occurred in the Prospecting Area.
51. The Objectors were also fortunate to receive the geology inputs from Professor JW Mann, not only a registered I&AP but also an adjunct professor in the Centre for Minerals Research at the University of Cape Town. His submission and CV are attached as **Annexure STOC 12a and b** respectively.
- 51.1. *“The historic prospecting activities of the prospecting area have decisively demonstrated that there is no prospecting evidence of Gold and Silver having any economic or potentially economic viability – this is also verified in a report issued by the Council for Geoscience in South Africa, the institutional organ of the state mandated by an act of parliament to be the nation’s custodian of exploration data of the country’s resource potential.*
- 51.2. *How can the applicant, motivate the need for an application for prospecting rights in an area officially reported not to have geology, without an alternative model for mineral enrichment that supports the application?*
- 51.3. *The scope of the proposed overall activity must be described by a hypothesis of a different model of the geological setting of the prospecting site, different to that of the historical geological setting which has been shown to have no economic viability (a conclusion that is supported by all of the historical prospecting activities) in order for all the alternatives and preferred alternatives (activities, location and technologies) to be identified, assessed and reported on.*
- 51.4. *Different minerals and mineralisation types are enriched over geological time by different geological processes and tectonic activity, in many cases after sequential cycles of the same or different geological processes and tectonic events. Geological modelling of the events can suggest characteristic signatures, specific geological anomalies that can be detected by different geophysical technologies and techniques.*

- 51.5. *The selection of appropriate airborne geophysical methods, geochemistry interpretation, and extent of geological mapping are very dependent on the style and type of mineralisation being targeted. The geological model developed defines the signature geological anomalies that need to be discovered and defines the range of geophysical tools and prospecting activities that need to be considered to delineate the potential prospecting targets. Once again geological modelling precedes prospecting activities, because it defines the set of alternatives that need to be considered in the BAR. This material information that must be disclosed.*
- 51.6. *Airborne geophysics are typically non-invasive, but are limited in their depth of penetration, and are typically only effective in detecting massive anomalies.*
- 51.7. *The preferred technology selected for ground geophysics, is a non-invasive technique – a ground magnetometer survey. Ground magnetic surveys are used to identify faults and folds hidden beneath cover rocks and for identifying demagnetised zones associated with hydrothermal activity. This helps identify demagnetised zones associated with swarms of hydrothermal quartz veins. However these anomalies need to be ground proofed and delineated. The selected methodology in this work program is soil sampling – to detect the presence of minerals being released in the soil layer by the weathering of the underlying rock.*
- 51.8. *Without out any disclosure of the applicant's hypothesised geological model, this selection seems to indicate that the targeted style of mineralisation is hydrothermally quartzite vein hosted gold and silver deposits.*
- 51.9. *Given the geological and tectonic history of Southern Africa, there are two possible ore genesis models that could be hypothesised for the Cape Supergroup • an Epithermal Gold or Silver deposit (with either high or low sulphidation) -associated with the Cape Granitic intrusion, or • an Orogenic (Iode) gold deposit - associated with the Cape Mountain folding orogeny.*
- 51.10. *Although these are the probable models the applicant has hypothesised, the geology of the prospecting permit site does not support either of these models – there are no known local magmatic intrusions, and the level of deformation*

of the rocks (folding) in the prospecting area will have had resulted in minimal hydrothermal enrichment.

- 51.11. *The likelihood of ground magnetometer surveying being able to delineate drilling targets is debatable, give the known low level of hydrothermal activity, hence demagnetisation. So alternative ground proofing methods will need to be used, namely pitting and trenching.*
- 51.12. *After soil geochemical and geophysical targets are generated a trenching or pitting exercise will be done on the anomalies to determine the sidewall properties, profiles and average grades and to do drill-hole targeting.”*
- 51.13. *I am extremely concerned that although trenching is mentioned on Page 13 of the Draft BAR, no further assessment of the impacts of this alternative activity is considered. Trenching and pitting are prospecting activities that have significant permanent and cumulative impacts on the environment. Why has this not been considered.*
- 51.14. *I have had personal experience in a mining project, Minera Cerro Vanguardia, a low sulphidation epithermal gold and silver deposit located in Santa Cruz Patagonia, Argentina. Prospecting of the site commenced in the late 1980's with operations commencing in 1998.*
- 51.15. *With reference to the pitting and trenching activities from prospecting: These trenches were necessary to ground proof the location of the epithermal veins for locating the drilling targets. The veins extended vertically from 0 to 200m deep. The longest of the trenches here are approximately 260m. As can be seen, they are permanent, and in the topography of the prospecting application, would be a severe erosion impact that will be cumulative locally, and regional, for all downstream water bodies and ecosystems.*
- 51.16. *If the topography of the prospecting site has steep slopes, other alternative methods exist i.e. prospecting adits, or prospecting tunnels (as was used in the historic prospecting activities on the site).*
- 51.17. *These activities cannot simply be excluded from the assessment of the BAR – they are part of the minimum information required to inform the Competent Authority and influence its decision to grant or not to grant an environmental authorisation.*

51.18. *Has the non-disclosure of the geological model and these highly probable prospecting activities been deliberate, or is it naivety with respect to what alternative prospecting activities may be necessary?"*

52. Based upon the above expert opinions, it is the Objectors' submission that the Applicant has absolutely no prospect of finding any minerals on the area. It simply does not have the required geology.

HYDROLOGY

53. On pages 35 and 36 the EAP discussed the importance of Strategic Water Source Areas (SWSA's) and stated that as far as Cape Agulhas Municipality is concerned 2,652 hectares fall within the Boland SWSA. According to the EAP the importance will further escalate. It then concludes that *"investing in the preservation and rehabilitation of SWSAs remains a prudent, high-yield approach to climate change adaptation, embodying Ecosystem-based Adaptation principle."*

54. The EAP however did not indicate what the relevance of this "preservation and rehabilitation" has for the intended prospecting. If the Prospecting Area falls within this Boland SWSA, the EAP has actually provided an important reason for not pursuing the Applicant's quest for gold prospecting.

55. The EAP's discussion of groundwater in the area on page 38 is incoherent and of no relevance. It basically is a discussion of the impact upon alien Eucalyptus trees on the site. The Objectors did not see any photographic evidence of these Eucalyptus trees.

56. The land owner Objectors are all farmers in the area, and it is common knowledge that the entire area's fresh water supply is provided by the Overberg Water Board. The Objectors could find no indication in the BAR that the EAP consulted with this Board.

57. According to the Board's 2021/22 annual report one of its objectives is to *"Provide reliable and sustainable bulk water services to all current clients in the Overberg Area and the rest of the Western Cape Province.."* It is situated in one of the water management areas, namely, the Breede-Gouritz Water Management Area (BGCMA) which measures approximately 72 000 square kilometres. The BGCMA is the sole water resource authority in the catchment, and *"gives effect to its function to investigate and advise water users on the protection, conservation, management and*

control of water resources in a cooperative manner.” No reference is made by the Board to a Boland SWSA as professed by the EAP.

58. The Overberg Water Board has two primary sources of water impoundments, namely the Theewaterskloof Dam and Duivenhoks Dam. With reference to the Theewaterskloof Dam it is important to note that this water source also supplies the entire Cape Town urban area with fresh water. Any activity that impacts upon water in Napier will therefore have an effect on Cape Town, especially if more water from Theewaterskloof is to be supplied to the Napier area. As it is, the Overberg Water Board recorded that *“According to the high growth scenario, the All Towns Study identified a possible shortfall of 0.83 Ml/d for Napier by 2035”*. At the tempo the area is growing (without the need for further prospecting and mining developments) a significant shortage of water is predicted.
59. Clearly the inputs of this important stakeholder in the area representing 720,000 Ha should have been sought by the EAP.
60. In addition it is well-known that the area also has its own Overberg Water Users Forum (hereinafter referred to as the “OWUF”). Once again, this Forum is not recognised nor was it consulted with by the EAP or its client.
61. The OWUF was created to act as a representative body for the agricultural water users that buy water via allocations from the Overberg Water Board. As determined by its constitution, OWUF acts as an institution for the agricultural water users as allowed for according to the National Water Act, 36 of 1998 and the Water Services Act, 108 of 1997. OWUF represents approximately 937 accounts (810 farms) that purchase water from the three water schemes in the Overberg and the Southern Cape regions. The Overberg Water Board supplies water to an area roughly 500 000 hectares, +-80 000 people and 2 300 000 small stock units, not only contributing to the people and the economy of the Overberg and Southern Cape regions, but also to the country as a whole.
62. According further to the OWUF the agricultural sector is totally dependent on water supplied by Overberg Water. It simply cannot sustain if other non-agricultural developments also make demands for water. This also includes the ground water abstraction of 268,025 m³ that the EAP alleged the Applicant could do without authorisation.

63. Finally it must be recorded that the water supplied to the end-users is purified water and it is supplied by means of a water pipeline network of 1,600 km. In other words the Applicant expects that water for human consumption must be used for prospecting purposes and accepts that drilling could cause damage to the pipelines.

AGRICULTURAL ACTIVITIES

64. The EAP devoted three paragraphs on page 35 to the area's agricultural potential. It acknowledged that it is the main economic sector. It is however at risk because of severe draught, hailstorms or climate extremes. Mechanisation also lead to job losses. The EAP then contradicts itself by recording *“Good crops in recent years have contributed to growth in the local economy but employment levels are still declining, and agro processing is key to driving growth and employment.”*.
65. Regarding agriculture's role in the region the OWUF stated the following:
- 65.1. The agricultural sector is an important sector in terms of the prosperity of the Local Municipalities of Swellendam, Theewaterskloof, Cape Agulhas and Hessequa.
- 65.2. The latest available economic statistics, indicates that the primary agricultural and agro-processing industries had a combined regional output of R1.702 billion, R7.355 billion, R2.252 billion, and R1.1376 billion for Swellendam, Theewaterskloof, Hessequa, and Cape Agulhas LM, respectively. This equates to 21%, 26%, 18% and 15% of the regions' total output, respectively.
- 65.3. It is emphasised that the Prospecting Area comprises farms that contribute to the R1.2 billion output for the Cape Agulhas Municipality. The agricultural sector is the leading contributor towards economic output in the municipal area, with a contribution of 15% of the regional output.
- 65.4. The positive impact of agriculture in the region is clear. It is however impossible for the agricultural sector to realise these contributions if a reliable supply of water from the Overberg Water Board is not guaranteed. The main reason that the agricultural sector was able to expand to approximately 2 300 000 small stock units, various milking parlors and extensive grain / wheat production (that requires water for timeous crop spraying, fertilizer applications etc.), was the development of the Overberg Water Board

infrastructure, delivering reliable water supply. It is this water supply that will be affected by mining or prospecting developments as it is the Applicant's intentions.

66. The Objectors also received the following inputs from an objector, Mr Carl Reich, that has extensive engineering, mining and tourism experience his contribution and resume is attached as **Annexure STOC 13)**
- 66.1. the agriculture is thriving and improving. Water and the environment per se would be the areas most negatively affected.
- 66.2. The waterways from the upper Kars River down the entire length flows past a myriad of farms where the 2 grains like canola and wheat are cultivated.
- 66.3. The farming / agriculture in the Overberg has many elements, Wheat, Barley, Lucerne, Canola, Sheep, Cattle, Timber, and Fruit. This area is the backbone of agriculture that together with the Swartland is rightly referred to as the breadbasket of South Africa.
- 66.4. The Overberg is steeped in history when it comes to agriculture where the farms have been handed down from generation to generation which total close to 200 years and 7 and 8 generations. The Fairfield Farmstead (1853) which is one of the directly affected farms, has heritage significance, is not even referred to in the BAR. In addition, the Moravian Church dating back 200 years located in Houtkloof which is adjacent to the Prospecting Area.
- 66.5. The area is so significant in agriculture that it hosts the second largest agricultural show in South Africa in September in Bredasdorp. It is hosted by SA Graan, the backbone of grains in the country.
- 66.6. Swellendam situated in the East has a canola oil processing plant where many people are employed.
- 66.7. The Kars River flows downstream and ultimately ends up in the de Mond Cape Nature Reserve which is a RAMSAR site.
67. It is the Objectors' submissions that the agricultural value and potential of the area cannot be disregarded as done by the Applicant. Irrespective of the amount of

employees in the workforce, it significantly contributes to the food supply on which all farm workers of the country is dependent upon.

ECOLOGY

68. The EAP devoted 1 page to the Ecology of the area (flora and fauna). It is clearly based upon a desktop general search and not upon a study from a specialist or the EWAP's own observations on his one day visit to the area of 3,787 Ha. The EAP's own approach does not testify to his stated experience in the field of environmental impact assessments. Although it is acknowledged that the threat status of flora in the area is endangered and critically endangered, only the threat of invasive alien plants is discussed, as well as the water consumption by Eucalyptus trees.
69. As for fauna the EAP relied upon "grid degree squares" of something unidentified. The EAP recorded 24 mammal, 14 reptile and 7 frog species, but stated that the area is dominated by crop farming with few vegetation.
70. It is clear that to the EAP and the Applicant, the fauna and flora in the area, save for eucalyptus trees, are insignificant.
71. If the EAP during his site visit had taken time to consult with residents and environmentalists (Doctors Curtis, Simmons and Murgatroyd previously referred to), he would have learned quickly of the following information of significance which is now highlighted by the Objectors:
 - 71.1. The vegetation types that will be directly impacted include Critically Endangered Central and Western Rûens Shale Renosterveld and Endangered Elim Ferricrete Fynbos. These habitats are among the richest (arguably *the* richest) of all Mediterranean ecosystems and the proportion of remaining vegetation of each one is far below the recommended threshold for acceptable habitat loss for all three vegetation types. This means that any additional loss of these systems should be avoided at all costs.
 - 71.2. The most critical part of the ecological assessment must hinge on the impact on the three endangered vegetation types, the associated watercourses, seeps and streams, as well as the Kars River that represents a critical water source for the area and ultimately feeds into a Ramsar site. The importance of

these is completely ignored in the BAR and they are brushed aside as if they are totally irrelevant.

- 71.3. Own basic mapping exercise reveals that there are nearly 600 ha of Critical Biodiversity Areas (hereinafter referred to as “CBAs”) in the proposed footprint of the prospecting area, and over 3400 ha of CBAs and over 730 ha of Ecological Support Areas (hereinafter referred to as “ESAs”) within a 5km radius of the prospecting area. Even a basic desktop analysis of the presence of CBAs and ESAs is completely lacking in the BAR.
- 71.4. What the EAP also ignored is the fact that vegetation that falls into the highest red list categories possible (before extinction) will be impacted by the prospecting and the fact that critical water resources and associated watercourses will be impacted. Building an entire diatribe around the methods used for alien clearing into this BAR serves to highlight how misinformed the EAP is regarding the real ecological issues (floral and faunal) at stake.
- 71.5. What may appear to someone unfamiliar with the region as unimportant, non-perennial, (and in some cases, degraded) watercourses are in fact a critical component of what remains of the ecological integrity in this area. They serve many functions:
- (i) they act as critical corridors for wildlife (including pollinators) between the remaining patches of natural vegetation;
 - (ii) they collectively feed into the very important Kars River system, which in turn feeds into the Heuningnes River, ultimately entering the De Mond Estuary, a Ramsar site. Thus, the ecological well-being of the Ramsar-listed (i.e. internationally important) estuary is reliant on the well-being of the watercourses, river, seeps and drainage areas within the footprint of the proposed mine; and
 - (iii) the few in-stream pools that retain water throughout the year, even during the dry periods, provide critical refuges for the Critically Endangered Redfin *Pseudobarbus burchelli*, which was recorded in these pools for the first time in 2016 by Dr Curtis of the Overberg Renosterveld Conservation Trust.

- (iv) It should be noted also that, like all semi-arid or arid ecosystems, any damage to renosterveld that extends below the topsoil is essentially irreparable and cannot be reversed.
- 71.6. The BAR fails completely to mention the avifauna that may be impacted. The two *Endangered* bird species that regularly occur in the area - the Cape Vulture *Gyps coprotheres* and Black Harrier *Circus maurus*. Dr Simmons' research and impact assessments at several sites in the Overberg (for different developments) indicate a minimum of 11 threatened red data species that occur on a regular basis within a total species exceeding 200 species (SABAP data). Many of these (the Blue Cranes, korhaans and bustards) nest on the ground in the habitat to be prospected and irreversibly destroyed, thereby decrease their remaining habitat.
- 71.7. Of critical importance in this group is the *Endangered* Black Harrier, one of South Africa's rarest endemic species, (comprising just 1300 individuals), whose breeding stronghold occurs in the Overberg. Indeed, one the sites identified for prospecting (the Fairfield farm) is a prime example of the inadequacy of this report because this species is known to breed on Fairfield, and forage extensively over the pristine habitat there. But neither the species nor the undisturbed nature of the farm have been either assessed or even mentioned at all.
- 71.8. It is unlawful to knowingly disturb or destroy such species or their habitat. More specifically, section 57(2) of NEMBA (National Environmental Management: Biodiversity Act) gives the Minister the power to prohibit activities which threaten the survival of a listed threatened species (such as the Black Harrier and Cape Vulture). Similarly, the Threatened and Protected Species Regulations provide that one *cannot carry on a restricted activity (which includes destroying or disturbing) within a listed threatened species occurrence* (K Handley, Biodiversity Law Centre, pers comm).
- 71.9. Therefore, it would be very unwise to proceed with this application because the prospecting will knowingly disturb and destroy habitat and nests of at least two (and up to 11) threatened species' known to be present and breeding in the area identified for prospecting. This is therefore a fatal flaw that the BAR did not identify and makes the prospecting and subsequent mining ill-advised,

destructive to Critically Endangered habitat and bird species, and ultimately illegal.

- 71.10. If the available Screening Tool was applied and considered, the EAP would have seen the area is entirely High or Medium sensitivity for Animal Species Theme; the Aquatic Biodiversity Theme includes areas of Very High sensitivity; the entire area is Very High sensitivity; for the Terrestrial Biodiversity Theme the sensitivity is Very High; and the combined Plant Species Theme incorporates areas with Very High sensitivity, presumably Critically Endangered patches or renosterveld which have also not been mapped in the BAR. This ignored basic screening tool demonstrates the high likelihood that the proposed prospecting will result in unacceptable ecological degradation or damage to the environment.
72. Based upon these specialists' extensive expertise and experience, the report borders being criticised on being described as incompetent in a complete disregard for the area's critical ecological and biodiversity importance.

HERITAGE MATTERS

73. Carl Reich's report (**Annexure STOC 13**) referred to the *"Farmstead FAIRFIELD (1853) which is one of the directly affected co-ordinates. This right here is heritage, which has not even been addressed in the draft. The Moravian Church which dates back 200 years has a location / outspan in Houtkloof which is adjacent to the mining prospecting site"*.
74. In addition the registered non-profit company South2TrueNorth (**Annexure STOC 3**) recorded as follows:

South2TrueNorth NPC is mandated to protect, restore and manage the heritage assets of Houtkloof and the ancient pilgrimage between Genadendal, Elim and the Southernmost Tip of Africa, L'Agulhas.

As such several properties and title deeds are affected landowners that have not been notified or consulted with.

It must be stated that the impacts of the proposed mining will be irreversible on the heritage assets dating back to before 1842.

This ancient route is also of significance with linkages to the Khoi Khoi first nation that used it as their nomadic grazing between "Baviaanskloof" (Genadendal) and the protein-rich source of seafood harvested at L'[Agulhas."

75. Substantive matters of heritage importance that are simply brushed aside by the Applicant and EAP.

PUBLIC RESPONSE

76. At present the membership of the Save the Overberg Coalition stands at 2,037 members, who are unanimous in their opposition to the Applicant's application for a prospecting right.
77. It is unequivocally stated by the Objectors that this application has received no positive response from the public. This is confirmed by the negative publicity it has received in the printed and electronic media.
78. The Objectors are not aware of any public support for the application. As a matter of fact the reaction overwhelmingly condemned the application; calling for the rejection thereof and questioning the "real" reason behind the bringing of this application.
79. It is also submitted by the Objectors that is extremely unlikely that any other government department would even consider conditionally supporting the application.
80. It is submitted that the DMR will have no other option but to take note of the vehement and vigorous public and departmental opposition when considering the application.
81. The EAP has been lax in responding to registrations of objectors and in supplying the requisite documentation. **Annexure STOC 14** is a letter to the EA from STOC's attorneys in this regard.
82. On 11 July 2024 the EAP, in response to an I&AP's objection regarding specifically the PPP, stated "Site notice (05/15/2024) has been place within the site. There was no residences or communities observed within the proposed site.". (email attached as **Annexure STOC 19a**). This is not the truth. Attached as **Annexure STOC 19b**, is

screenshots of aerial pictures of the 6 farms clearly showing the residences on each of the farms. Another deliberate misrepresentation by the EAP.

NEED AND DESIRABILITY

83. Need and desirability is based on the principle of sustainability, set out in the Constitution and in NEMA, and provided for in various policies and plans, including the National Development Plan 2030 (NDP).
84. Addressing the need and desirability of a development is a way of ensuring sustainable development – in other words, that a development is ecologically sustainable and socially and economically justifiable – and ensuring the simultaneous achievement of the triple bottom-line.
85. It therefore is incumbent upon the Applicant to motivate that the proposed prospecting development it aims to acquire must be proven to be-
- (i) Ecologically sustainable; and
 - (ii) Socially and economically justifiable.
86. In paragraph 5 on page 22 the Applicant through its EAP motivated the “need and desirability” of the prospecting operations as follows-
- (i) Exploration work is very important in coming up with a decision to open a mine.
 - (ii) The planned drilling positions are located on the rocks forming part of the Bushmanland Group and it is important that the drill holes are located on these sites.
 - (iii) The proposed prospecting area is targeted as, historically gold ore occurrences are known in the area with a mine within 12 km from the site area (Hansiesrivier). Based only on this the EAP regards the Prospecting Area as the preferred site and alternative site is not considered.
87. It speaks for itself that the Applicant has not met the criteria to satisfy the requirements for need and desirability. Its BAR is flawed and is of no value as far as the recording of any ecologically sustainable evidence is concerned. Furthermore, absolutely no evidence or information was provided to satisfy the requirements of being socially and economically justifiable. It only serves the interest of the Applicant in its quest to locate nothing more than “fool’s gold”. As for place, the Applicant wishes to prospect in an

area 12 km removed from the area where the only minute occurrence of gold was allegedly noticed. Reputable geologists are in agreement – there are no minerals suitable for mining in the area.

88. It is clear that the Applicant has lodged “*A carte blanche application for any site in the general location within a huge geographical area is specified. The geology and ecology within this area differ radically and no scientific basis for proposed activities is provided.*” (South2TrueNorth NPC)

89. The specific site contributes to the local economy through agriculture and create work opportunities. The region is also embracing the development of rural and agricultural tourism which provides sustainable long term work opportunities with a focus on conservation of the natural resources and landscape, something mining tends to destroy. To thus claim that the proposed activity will result in a loss of economic opportunity is a generic statement not supported by any details (S Lategan)

90. A mere referral to and an incorrect rendition of the Cape Agulhas Municipal SDF, 2024 (Council Resolution 87/2024) cannot be used as a justification for prospecting or mining development. It comprises of guidelines at all times subject to the approval of the listed activities subject to a public participation process and the approval by Town Planning of Cape Agulhas Municipality under the relevant Land Use Planning Act.

91. As pointed out by S Lategan (**Annexure STOC 15**) a proper perusal of the SDF by the EAP would have revealed the following:
 - 91.1. The SDF put emphasis on the conservation of terrestrial ecosystems and the map 12 (p68) indicates the application area as “Critically Endangered” This should already raise serious concerns with regard to the desirability of mining in the specific area.

 - 91.2. The site intended is located within the “Renewable Energy Development Zone” identified in the SDF (Map 25).

 - 91.3. Table 28 in the SDF indicates “*Eco-tourism opportunities due to the natural assets and landscapes of the area in Napier and L’Agulhas.*” as a potential economic opportunity.

- 91.4. The SDF furthermore identify “*Groundwater contamination is a risk*” and it is well known that mining holds a high risk to the contamination of water.
- 91.5. The SDF proposes the following goals –
- *Develop sustainable human settlements for the residents of the Municipality.*
 - *Protect and conserve the natural assets of the Municipality.*
 - *Explore and maximise tourism opportunities.*
 - *Preserve and protect heritage sites.*
 - *Explore and create economic opportunities.”*
- 91.6. The SDF actually goes as far to support the protection of agricultural land as it plays such an important role in the economy of the area. Par 8.6.6 states as follows – “*The analyses of phases 2 and 3 of this MSDF revealed that the agricultural sector accounts for 12.7% of the total municipal employment. Therefore, and as is the case with the natural environment, it is critical to maintain and protect agricultural land within the Municipality.* It is thus clear that emphasis is placed on the conservation of the natural environment, growing of tourism and protection of heritage. It would thus be incorrect to conclude that the SDF pertinently supports mining development.
- 91.7. Wheat and sheep are the Municipality's main agricultural commodities. Because of its relatively reliable dryland agricultural conditions, with winter rainfall and warm, dry summers, the Rûens West Shale Renosterveld area (spanning Kleinmond and Botrivier in the west to Riviersonderend, Bredasdorp and L'Agulhas in the east) remains favourable for small grain production. The MSDF identified agricultural land that is suitable for farming.
- 91.8. As with tourism, it is important that the agricultural sector should be strengthened and expanded, such as the NSDF's proposal to build an agri-hub in Bredasdorp. This agri-hub will be located in a large agricultural service centre and will serve as a production, equipment rental, processing, packaging, logistics, and training unit.”

- 91.9. Likewise, the Overberg District Municipality has designated Napier as a farmer production support unit, which is included in the MSDF proposals. Napier has fertile farmland and a thriving agricultural community and is well-known for producing a wide range of crops, such as wheat, barley, canola, and grapes for wine production. A mini agri-hub in Napier could help further develop and support the local agricultural industry, boosting the local economy and creating jobs. Furthermore, in order to expand the agricultural sector and its contribution to regional livelihoods, CAM should consider establishing and supporting farming areas around residential areas that can support small-scale agriculture.
- 91.10. Table 42 furthermore proposed that the landscape and settlement elements in Napier be protected through inter alia “*Maintain the current sense of arrival to the settlement from the direction of Caledon and Bredasdorp.*”
- 91.11. It is thus incorrect to state that a Prospecting (mining) application is explicitly supported by the MSDF where it in fact supports economic activities which can be at risk from mining activities.
- 91.12. The reference in the report to Section 5.1 of the SDF municipality by the EAP, could in fact not be found in the 2024 approved document.

REGULATORY FRAMEWORK APPLICABLE

92. A report by attorney David MacGregor of the firm Macgregor Stanford Kruger Inc on the regulatory framework in which prospecting rights applications must be considered and on compliance by the Applicant is attached as **Annexure STOC 16**. This report is self-explanatory and is not repeated herein.
93. It is however necessary to record the failures by the Applicant to comply to the stated statutory framework as set out by Attorney MacGregor. The application must fail, and the rights must not be granted if the application fails to meet the legal requirements. For the reasons set out below, the application fails to meet the mandatory requirements and must accordingly fail because it:

- 93.1. repeatedly violates the principles and objectives of the Mining Act and of NEMA;
- 93.2. repeatedly fails to comply with the requirements of the scheme;
- 93.3. relies heavily on assumption rather than fact;
- 93.4. is superficial, vague, illogical and contradictory.
- 93.5. it flies in the teeth of the principles set out in section 2 of NEMA and will result in disturbance of ecosystems, loss of biological diversity, pollution and degradation of the environment, and disturbance of landscapes and cultural heritage sites;
- 93.6. it does not give effect to the general objectives set out in chapter 5 of NEMA: the environment, prevailing socioeconomic conditions and cultural heritage will all suffer materially negative, and in some instances, permanent impact;
- 93.7. the application does not include an environmental management programme which meets the requirements of section 39(3);
- 93.8. the prospecting operation will manifestly not be conducted in accordance with generally accepted principles of sustainable development and thus contravenes section 37(1);
- 93.9. the applicant does not make provision for rehabilitation as is required by section 41(1);
- 93.10. The prescribed expert/specialist reports do not accompany the application and it must therefore fail for that reason alone; and
- 93.11. the EAP patently has no or did nor record any prospecting or mining experience or expertise. Section 13(1)(b) of the NEMA Regulations requires EAPs to have the requisite expertise in specialist work and no such expertise is indicated in relation to prospecting.

COMPLIANCE WITH SECTION 17 REQUIREMENTS FOR A PROSPECTING RIGHT

94. Section 17 of the Act is peremptory in that it provides that a prospecting right can only be granted by the competent authority if there is compliance with the following predetermined conditions –

94.1. *The Applicant has access to financial resources*

The Applicant has failed to provide any convincing motivation of this requirement, despite the Objectors' request for it. The Applicant bears the onus to provide proof that either it has the financial ability to embark upon a futile expedition to find non-existent minerals or has a funder who will be prepared to throw a million or more Rand in the dirt to satisfy the desires of the Applicant and its director.

It is recorded that the Applicant's director has to run and operate 126 other companies. This will be no mean feat and not a cheap exercise in anyone's books.

94.2. *The Applicant has the technical ability to conduct the prospecting operation optimally in accordance with the PWP*

In paragraphs 6.1.2 and 6.1.4 of the BAR it is recorded that certain decisions were made based on "*the long-term success of the company in terms of their prospecting history*". The Objectors did not see any evidence of any successes (long or short term) the Applicant has had in its meagre existence of 4 years.

The Objectors has also not seen any evidence of an agreement signed by any reputable company that would be willing to prospect for elusive minerals and at what fee.

94.3. *The estimated expenditure is compatible with the proposed prospecting operation and duration of the PWB*

It can hardly be argued by the Applicant that its estimated expenditure to look for nothing more than fool's gold would be compatible with the operation and duration of the PWP.

- 94.4. *The prospecting will not result in unacceptable pollution, ecological degradation or damage to the environment*

The Applicant has not done any research on environmental matters in the area. Its basic assessment is based upon irrelevant desktop material and the BAR serves as proof that the EAP has no knowledge of the area and its environment. The Objectors' specialists have all listed material aspects that should have been researched by the EAP. It was not, and the BAR therefore is fatally and irreparable flawed.

- 94.5. *The Applicant has the ability to comply with the relevant provisions of the Mine Health and Safety Act, 1996*

If the Applicant cannot comply with basic environmental requirements, then its ability to comply with health and safety requirements must be questioned.

- 94.6. *The Applicant is not in contravention of any relevant provision of this Act*

Its EAP confirmed the correctness under his signature of matters that are proven to be demonstrably incorrect. See paragraph 32.35 above.

95. It is submitted that the DMR cannot in these circumstances even consider granting the Applicants application.

THE EAP'S RESPONSES TO OBJECTORS

96. It must be recorded that the EAP's responses to objections by various I&AP's received by 15 July 2024, are unfortunate and condescending.
97. In various instances he simply ignored requests of I&AP's to be registered as such and to be provided with the relevant documentation.

98. He questions objectors on whether they actually read the BAR. He forgets that it is after reading the unsatisfactory BAR that I&AP's questions arose.
99. Based upon the responses received to the objections, it is clear that the EAP will not address valid concerns and merely stated that he is not required to do so for "only" a prospecting right authorisation.
100. I&AP's responses have been specific about concerns with respect to the EAP's competence demonstrated by his errata, the omission of material information about impacts, particularly about alternative sites, methods and technologies, and his blatant misinterpretation of the SDF - as they all relate to his requirement of identifying impacts that I&AP's consider to have significant cumulative, residual and permanent impacts, not only on the site, but for Cape Agulhas Municipality and the wider region .
101. He has been put on notice by IAP's responses of examples of missing relevant information, deliberate misinformation and omission of material information (as required by law) but merely ignored same in his responses. These actions must inform and influence the Competent Authority's decision to grant an environmental authorisation.
102. The environmental regulations require that all impacts are to be assessed before the granting of the authorisation - these assessments cannot simply be postponed as a commitment in the EMPr by the EAP only to assess after an environmental authorisation according to its current BAR has been approved. This flies in the face of a proper PPP as required.
103. The EAP is on record stating that he was not the consultant appointed to deal with the prospecting right application, yet his responses reflect differently. He also discards a lot of concerns stating that they will be addressed during the mining right application. He clearly is of the view that the prospecting right application will be successful. In fact, his actions are indicative of the fact that granting of a prospecting right is merely the prerequisite for lodging a mining right application.
104. Not addressing these concerns as required, gives rise to concerns about the EAP's independence and it must, in terms of the statutory provisions, be raised with the DMT who must then investigate and notify I&AP's of the outcome.
105. It must also be remembered that he is the 3rd EAP appointed by the Applicant. The others were not prepared to continue with the process.

CONCLUSION

106. In light of what has been recorded in paragraphs 1 to 105 above the Objectors assert that the prospecting right application submitted by Cienth (Pty) Ltd should be rejected by the Department of Minerals Resources.
107. For the sake of convenience the reasons for rejecting the application are summarised as follows:
- 107.1. The generic nature of the BAR and EMP and the absence of required substantive evidentiary proof.
 - 107.2. The Applicant's total lack of technical and financial abilities to initiate, conduct and complete the envisaged prospecting operations;
 - 107.3. The subject properties are active agricultural farms providing residence and employment to a number of persons committed to food production. The existing nature of the properties renders a harmonious co-existence with prospecting activities impossible.
 - 107.4. The properties' zonings do not permit any prospecting activities and the land owners will not permit any applications for rezoning or consent use.
 - 107.5. There is not even a remote possibility that any meaningful deposit of any minerals will be found.
 - 107.6. Any prospecting activity would have a serious and detrimental effect on constitutionally entrenched environmental matters. This was not even properly canvassed and considered by the Applicant and its EAP.
 - 107.7. The Applicant did not consider substantive matters such as the ecology, hydrology, heritage, agriculture and the Cape Agulhas Municipality's SDF.
 - 107.8. The application would not be supported by any other government department. The application has no public support and as a matter of fact is widely condemned.
 - 107.9. Serious questions must be asked regarding the real reason for bringing this application by an Applicant with no experience in the fields of mining or

prospecting. The only motivation would be to trade any right acquired by simply selling the holder-company to the highest bidder. There is no evidence that the Applicant and its director are serious about prospecting or the environment.

107.10. The interests of active agricultural production and food security must outweigh the exploitation of far less than marginal mineral deposits.

107.11. This application should be considered against the background of previous unsuccessful applications in this regard, especially in light of the fact that the Applicant unequivocally states that the ultimate goal is to develop a mine;

107.12. This submission should be read in conjunction with the submissions made by other interested and affected persons and objectors, specialists and otherwise.

Based upon the aforementioned, it is the Objectors' prayers that the DMR as the competent authority shall refuse the Applicant's application for a prospecting right as applied for.

Signed at Cape Town on this 15th day of July 2024 for and on behalf of the Objectors, duly authorised to do so (mandate attached as **Annexure STOC 17**).



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