



the federation for a sustainable environment

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OBJECTION TO THE PROSPECTION APPLICATION BY LWENZHE RESOURCES AND EXPLORATION (PTY) LTD ON FARM WAAGFONTEIN 89 JQ FARM WITHIN THE WESTERN LIMB OF THE BUSHVELD IGNEOUS COMPLEX (BIC). (FILE REFERENCE NO. SAMRAD: NW 30/5/1/1/2/12283 PR)

I write on behalf of the Federation for Sustainable Environment (FSE). The FSE is a federation of community based civil society organisations committed to the realisation of the constitutional right to an environment that is not harmful to health or well-being, and to having the environment sustainably managed and protected for future generations. Their mission is specifically focussed on addressing the adverse impacts of mining and industrial activities on the lives and livelihoods of vulnerable and disadvantaged communities who live and work near South Africa's mines and industries.

We respectfully advise that this objection should be read in conjunction with the FSE's comments on the Project during the Public Participation Process.

The Project

Lwenzhe Resources and Exploration (Pty) Ltd is proposing chrome and platinum group metals (PGM) exploration of 688.988 hectares on Farm Waagfontein 89 JQ farm within the Western Limb of the Bushveld Igneous Complex (BIC). (FILE REFERENCE NO. SAMRAD: NW 30/5/1/1/2/12283 PR)

Prospecting, is a precursor to mining and is acknowledged in the Application by the EAP's statements that "*assess if the resource can be extracted through future mining...and "... [the] potential of a mine development will also be lost if the prospecting activities are not implemented.*"

The FSE objects to the proposed project on the following grounds:

Need and Desirability

The National Development Programme states that "*[i]t is urgent to stimulate mining investment and production in a way that is environmentally sound ...*".

We submit that the project is neither ecologically sustainable nor economically justifiable.

In Fuel Retailers the Constitutional Court laid a solid foundation for an integrated understanding of the right to development-in-environment protected by s 24 of the Constitution:

1. Need to consider future generations (inter- and intra-generational equity).
2. The givenness and vulnerability of the environment.

The area where the Applicant is applying for prospecting authorisation is in the heart of a tourist zone and right on the boundary of the Pilanesberg National Park and the Legacy Group's leased area, less than 1km from the existing Kwa Maritane Lodge. The EAP, failed to declare this fact and surprisingly, described the area as "rural" with a "low" sense of place and visual impact.

Mining is, in terms of the Mining and Biodiversity Guideline, legally prohibited in Protected Areas (including National Parks, Nature Reserves, World Heritage Sites, Protected Environments, Nature Reserves).

Of significant relevance is the attached Notarial Deed of Lease for Kwa-Maritane. In terms of this Agreement, the "lessor", that is the South African Government, "*agrees that throughout the currency of this agreement ...no person shall conduct, any mining, exploration or prospecting activities of whatsoever nature on o under the premises or on any slopes of the hills or any other places which are visible from any point on the premises.*"

The relevant section is subjoined hereunder.

MINERAL RIGHTS

15. The lessor agrees that throughout the currency of this agreement it shall not grant any rights whatsoever to any persons whomsoever in terms of which the latter are entitled to conduct, and the lessor shall procure that, notwithstanding any existing rights at the time of the conclusion of this agreement, no person shall conduct, any mining, exploration or prospecting activities of whatsoever nature on or under the premises or on any slopes of the hills or any other places which are visible from any point on the premises;



Since the BIC contains the world's largest reserves of platinum-group metals (PGMs) or platinum group elements (PGEs), there is no need to prospect or mine for PGMs in protected areas and areas of highest biodiversity importance.

It is furthermore well established that producers in South Africa (which accounts for about 70% of the world's mined platinum) are closing shafts and cutting thousands of jobs as a stronger rand combines with stagnating prices for the metal in squeezing profit margins.

The future looks equally bleak, as reduced demand for diesel engines and the rise of electric cars threatens to erode the need for the metal used to cut pollution.

Analysts are agreed that the industry is going to shrink in size until there is a new source of demand. We are likely to see more operations close.

Across the industry, the cuts are piling up. Impala Platinum shut a shaft at its Rustenburg operation in January 2018, flagged three more to be closed once mined out and fired 1,400 workers. The miner has closed 10 shafts since 2013. Rival Lonmin burnt through a third of its cash last quarter and could cut more than 12,000 jobs over three years, while top producer Anglo American Platinum has a spending freeze in place on major new developments.¹

Mining, which is finite, has profound often irreversible impacts on eco-systems². The ecological function of mined land cannot be restored. In the assessment of “Need and Desirability”, the EAP prioritised short term socio-economic benefits while failing to highlight the significant impact on eco-tourism and tourism within the Pilanesberg National Park and tourist attractions such as Sun City.

Sense of Place

It is part of our law that the potential impact of a development on the sense of place of an area must be considered.

In the case of Director: Mineral Development Gauteng Region and another v. Save the Vaal Environment and others 1999 (2) SA 709 (SCA) at 715C, the Supreme Court of Appeals with regard to a proposed mine on a wetland next to the Vaal river, identified as an environmental concern the “...predicted constant noise, light, dust and water pollution resulting from the proposed strip mine will totally destroy the ‘sense of place’ of the wetland and the associated Cloudy Creek. Thus the spiritual, aesthetic and therapeutic qualities associated with this area will also be eliminated.”

This finding by the court established sense of place, as an environmental concern that can be impacted upon by development and that should be considered accordingly.

The EAP failed to consider the impacts – as experienced by tourists - of the activity on the unique sense of place of the Pilanesberg National Park, the Kwa Maritane Lodge and Sun City. Sense of place has an economic value.

Alternatives

The Applicant and its EAP failed to consider alternative activities such as Eco-Tourism and Tourism, which we consider to be the Best Practicable Environmental Option for the area.

Public Participation

The entitlements which flow from a prospecting and mining right are so far-reaching, and because the consent of the surface owner and occupiers is not required, the law makes provision for an extensive variety of balancing mechanisms which are aimed at reducing and managing mining’s impact on the environment. One of the most important of these balancing mechanisms is the Public Participation process.

The EAP failed to address the issues raised by the FSE in a meaningful and adequate manner.

¹ <https://www.businesslive.co.za/.../mining/2018-03-26-platinum-mines-in-sa--the-world>

² European Environmental Bureau (EEB). 2000. The environmental performance of the mining industry and the action necessary to strengthen European legislation in the wake of the Tisza-Danube pollution. EEB Document no 2000/016. 32 p



Draft Environmental Management Framework for the Bojanala Platinum District Municipality

While we recognise that the Environmental Management Framework (EMF) for the Bojanala Platinum District Municipality has not been finalised and published, it is nonetheless our considered opinion that the authorities ought to consider the proposed EMF and in particular the development opportunities, the environmental management zones and the desired state of the environment, as identified in the draft EMF, in their decision regarding the proposed prospecting application.

SUBMITTED BY:

A handwritten signature in black ink, appearing to read 'M. Liefferink', written in a cursive style.

Mariette Liefferink.

CEO: FEDERATION FOR A SUSTAINABLE ENVIRONMENT.

30 May 2018.

